IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4256 of 2014
Date of decision:- February 02, 2017

GANGA DEVI **....APPELLANT..**

VS.

RAJ KUMAR AND OTHERS **....RESPONDENTS..**

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Anil Kumar Gahlawat, Advocate for the appellant.

Mr. Vinod Khunger, Advocate,
for respondent No.3-Insurance Company.
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JASPAL SINGH, J.

Dissatisfied with the award dated 06.12.2013, passed by Motor Accident Claims Tribunal, Sonepat (for brevity, "Tribunal") in MACT No.42 of 2012/2013, captioned as ***"Ganga Devi and another vs. Raj Kumar and others"*** under Section 166 read with Section 140 of the Motor Vehicles Act, 1988 (for short, "Act"), whereby the claimants were awarded compensation to the tune of ₹7,19,932/- along with interest @ 7.5% per annum, on account of death of Rakesh Kumar their son in an accident occurred on 21.09.2012 in the area of Murthal side to Ganaur road, the appellants/claimants have preferred the instant appeal for enhancement thereof.

2. While holding that death of Rakesh Kumar son of Nafe Singh has occurred due to the accident which took place on 21.09.2012 due to the rash and negligent driving of trolla bearing Registration No. HR55-P1151 by its driver i.e. respondent No.1 and further that the vehicle was duly

insured with the insurance company, the driver, owner as well as insurance company were jointly and severally held liable to pay the awarded amount of compensation.

3. The ld. Tribunal on the basis of evidence adduced by the appellants-claimants assessed the income of deceased-Rakesh Kumar to the tune of ₹5000/- per month and after having deducted 2/3rd of the amount in consideration of the expenses which the deceased would have incurred towards maintaining himself had he been alive, annual dependency worked out to the tune of ₹39,996/- per annum. Since, Rakesh Kumar was aged about 29 years at the time of his demise, multiplier of 17 was correctly applied. However, the ld. tribunal has committed an error while not awarding just and proper compensation on account of funeral expenses, loss of consortium and loss of love and affection and future prospects. On account of funeral expenses, only a meagre sum of ₹10,000/- has been awarded whereas on account of loss of consortium only a sum of ₹20,000/- has been granted. Nothing has been awarded on account of loss of love and affection or future prospects. The grant of the aforesaid amount(s) can be said to be unjust and inadequate especially in view of the guidelines laid down by Hon'ble Apex Court in case captioned as ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another" 2009(3) RCR (Civil) 77*** which has subsequently been approved in case captioned as ***"Rajesh vs. Rajbir 2013 (3) RCR (Civil) 170***. As per the guidelines, the claimants are entitled for enhanced compensation on account of loss of consortium to the tune of ₹80,000/- in addition to the amount of ₹20,000/- already awarded. Similarly, claimants are also entitled to a sum of ₹25,000/- on account of funeral expenses as against a sum of ₹10,000/- awarded by the ld. Tribunal

i.e. ₹15,000/- more. In addition to it, the claimants are also deserve the compensation on account of loss of love and affection to the tune of ₹1,00,000/-. Besides it, claimants also deserve compensation on account of future prospects. Since, the deceased was 29 years of age at the time of his death in accident, thus, the claimants are entitled to 50% of the actual income of the deceased, which comes out to ₹10,20,000/-(5000+2500(50%) =7500/2/3rd=5000x12x17). Thus, the total compensation works out to ₹12,15,000/- As such, the claimants are entitled to enhanced compensation to the tune of ₹4,95,068/- i.e. an amount in addition to the compensation already awarded by the ld. Tribunal i.e. ₹7,19,932/- only

4. In the light of what has been discussed above, the appeal is partly allowed. Appellant-claimant No.1 shall be entitled to enhanced amount of ₹4,95,068/- in addition to the compensation already awarded. Although as per award there is joint liability of compensation upon respondents No. 1 to 3 yet the insurer is to indemnify the owner. Accordingly, the insurer i.e. insurance company-respondent No.3 is directed to pay the amount so enhanced within a period of two months from the date of receipt of certified copy of this order and on its failure to make the payment within stipulated period, it would entail interest @ ₹7.5% per annum from the date of filing of the claim petition before the Tribunal till its realization.

5. Parties to bear their own cost.

February 02, 2017 **(JASPAL SINGH)**
sonika **JUDGE**

Whether speaking/reasoned: Yes

Whether reportable: Yes