

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4472 of 2014 (O&M)

Date of Decision:05.09.2017

Smt. Pinki and others

.....Appellants

Versus

Rakesh Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Chander Shekhar, Advocate for the appellants.

Mr. Vishal Yadav, Advocate
for respondents No. 1 and 2.

Mr. Suvir Dewan, Advocate
for respondent No. 3.

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 4.6.2012 passed by the Motor Accidents Claims Tribunal, Palwal, (hereinafter referred to as 'the Tribunal').

In an accident occurred on 19.12.2009, Mukesh Kumar while going to his village on his motor cycle bearing Registration No. HR-51-Y-0484, was hit by a car bearing Registration No. HR-51P-5900 (hereinafter referred to as 'the offending car'). As a result of the accident, Mukesh Kumar sustained injuries all over the body and was taken to B.K. Hospital, Faridabad, where he was declared dead. FIR No. 381 dated 20.12.2009 was also registered in Police Station Sector-55, Faridabad. The Tribunal, after considering the evidence and witnesses, awarded a sum of ₹ 4,22,981/-

along with interest at the rate of 9% per annum.

Aggrieved of the said award, the claimants have filed the present appeal for enhancement of compensation.

I have heard learned counsel for the parties and perused the paper book with their able assistance.

Learned counsel for the appellants has argued that ₹10,000/- awarded by the Tribunal under the heads of funeral expenses, loss of consortium, loss of estate, is a meager amount. Learned counsel further contended that the claimants should have been awarded just and equitable amount under various heads.

Learned counsel for the respondents argued that it is not only that ₹ 10,000/- has been awarded to the claimants, an amount of Rs. 4,22,981/- has also been awarded as compensation which has been arrived at keeping in view his income and age. Learned counsel for the respondents further contended that no interference is called for and the appeal should be dismissed.

The facts which are not disputed by both the sides are that the death of Mukesh Kumar was as a result of accident between the motor cycle and the offending car. The Tribunal has already recorded that the car was being driven in a rash and negligent manner. The age of the deceased at the time of accident was 29 years. As per Income Tax return Ex.P2, the annual income of the deceased after deduction of TDS was taken to be Rs.32,391/-. This amount is not disputed by the appellants.

Keeping in view the fact that the deceased was survived by five claimants, 1/4th deduction of personal expenses was made. The deceased was 29 years of age, hence the multiplier of 17 was applied. None of the

above said facts are in dispute.

The only issue to be decided is whether the amount awarded under the heads like-'funeral expenses', loss of consortium, loss of estate and loss of love and affection should be enhanced?

Hon'ble the Apex Court in ***Asha Verman and others Vs. Maharaj Singh and others, 2015(4) SCC (Civil) 767***, held as under:

*“17. Further, the High Court has erred in awarding only ₹ 5,000/- each towards loss of estate, funeral expenses and loss of consortium. We award ₹1,00,000/- towards loss of estate according to the principles laid down in the case of **Kalpanaraj & Ors. v. Tamil Nadu State Transport Corporation, 2014 (2) R.C.R.(Civil) 876: 2014 (3) Recent Apex Judgments (R.A.J.) 112: 2014 (5) SCALE 479, ₹ 25,000/- towards funeral expenses and ₹ 1,00,000/- towards loss of consortium as per the principles laid down by this Court in the case of **Rajesh & Ors. Vs. Rajbir Singh & Ors., 2013 (3) R.C.R. (Civil) 170: 2013(3) Recent Apex Judgments (R.A.J.).659: (2013) 9 SCC 54.*****

*18. Further, we award ₹ 1,00,000/- each to the appellant-children towards loss of love and affection due to the loss of their father(deceased) as per the decision of this Court in the case of **Juju Kuruvila & Ors. vs. Kunjujamma Mohan & Ors., 2013(3) R.C.R. (Civil) 817 : 2013(4) Recent Apex Judgments (R.A.J.) 364 : (2013)9 SCC 166. Further, a sum of ₹ 50,000/- is awarded to each of the appellant-parents towards loss of love and affection of their deceased son as per the principles laid down by this Court in the case of **M Mansoor & Anr. vs. United India Insurance Co.Ltd., 2013(4) R.C.R.(Civil) 729 : 2013(5) Recent Apex Judgments (R.A.J.) 516 : 2013 (12) SCALE 324.*****

A perusal of the above decision shows that Hon'ble the Apex Court has enhanced the compensation awarded by the High Court under the Heads-loss of estate, funeral expenses and loss of consortium and also awarded compensation under the head of loss of love, care and guidance of the minor children.

Hon'ble the Apex Court in *Rajesh and others Versus Rajbir Singh and others*, 2013 (9) SCC 54, has held as under:

“The ratio of a decision of this Court, on a legal issue is a precedent. But an observation made by this Court, mainly to achieve uniformity and consistency on a socio-economic issue, as contrasted from a legal principle, though a precedent, can be, and in fact ought to be periodically revisited, as observed in *Santhosh Devi* (supra). We may therefore, revisit the practice of awarding compensation under conventional heads; loss of consortium to the spouse, loss of love, care and guidance to children and funeral expenses. It may be noted that the sum of ₹ 2500/- to ₹ 10,000/- in those heads was fixed several decades ago and having regard to inflation factor, the same needs to be increased.”

A perusal of the above decisions shows that the compensation under the heads mentioned therein is to be awarded.

Keeping in view the above referred decisions, the Tribunal should have granted adequate compensation under the various heads.

Accordingly, the claimants are granted an amount of ₹ 25,000/- for funeral and last rites; ₹ 50,000/- for loss of consortium; ₹ 20,000/- for loss of estate; ₹ 40,000/- for loss of care and guidance of minor children and ₹ 2,00,000/- for love and affection.

The award dated 4.6.2012 is modified to the extent that an

amount of Rs.4,22,981/- awarded by the Tribunal, is enhanced to Rs. 7,57,981/-. The claimants would be entitled to the enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the petition till its realization.

The appeal is accordingly partly allowed.

05.09.2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No