

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5169 of 2013 (O&M)

Date of decision:- January 24, 2017

SMT. ANURADHA AND OTHERS

....APPELLANTS..

VS.

VED PARKASH AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Rishi Pal Singh, Advocate for
Mr. Jaivir Yadav, Advocate,
for the appellants.

Mr. Deepak Girotra, Advocate,
for respondent No.1.

Mr. Praveen Sharma, Advocate for
Mr. Arvind Singh, Advocate,
for respondent No.2.

Mrs. Shamsheer Kaur, Advocate,
for respondent No.3.

JASPAL SINGH, J.

CM Nos.22000 and 22001-CII-2013

Delay in filing and re-filing the present appeal is condoned.
CMs stands disposed of.

Main case

Feeling aggrieved against the award dated 05.06.2012, passed
by Motor Accident Claims Tribunal, Rohtak (for short, "Tribunal") in
MACT No.148 of 2011, captioned as "*Smt. Anuradha and others vs. Ved
Parkash and others*" under Section 166 of the Motor Vehicles Act, 1988

(for brevity, “the Act”), whereby the claimants No.1 and 3 were awarded compensation to the tune of ₹8,21,000/-, out of which 15% deducted towards contributory negligence which is ₹1,23,150/- which makes the remaining amount of compensation as ₹6,97,850/-, on account of death of Rakesh Kumar in a vehicular accident occurred on 28.06.2011 at 4:00 p.m. near Shere Punjab Hotel, Rohtak Road, they have preferred the instant appeal for enhancement thereof.

2. Concededly, the monthly income of the deceased was assessed as ₹6000/- per month by Id. Tribunal and the appellants-claimants were granted the compensation to the tune of ₹6,97,850/- after deducting 1/3rd of the expenses which deceased would have incurred towards maintaining himself had he been alive and 15% contributory negligence. The annual dependency was worked out to ₹8,16,000/- per annum (₹48,000x16). The multiplier of 17 was applied taking into consideration the age of the deceased to be 29½ years at the time of his death. In addition to it, a sum of ₹5,000/- was awarded on account of transportation and last rites of the deceased and ₹15,000/- was granted towards loss of consortium. Thus, it is evident that no amount of compensation was paid on account of future prospects and loss of love and affection whereas the amount of compensation awarded on account of loss of consortium and lump sum amount on account of loss of estate and funeral expenses is 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 compensation on account of future prospects. In view of the age of the deceased i.e. 29½ years, 50% of the income i.e. 3000/- is to be added as future prospects, thus, it comes to 9000/- (6000+3000). After deducting 1/3rd i.e. 3000/- as personal expenses, the dependency of the claimants comes to ₹6000/- per month. As the age of the deceased was 29½ years, multiplier of 17 is to be applied. The total amount of compensation on account of loss of income comes to ₹12,24,000/- (6000x12x17). The appellants-claimants are entitled for a sum ₹1,00,000/- on account of loss of love and affection. Besides it, Smt. Anuradha, widow of Rakesh Kumar (deceased) is entitled to a sum of ₹85,000/- more by way of compensation on account of loss of consortium instead of ₹15,000/- and ₹20,000/- more on account of funeral expenses instead of ₹5000/- already awarded. Thus, the total amount works out to ₹14,29,000/- to which, the claimants are entitled on account of death of Rakesh Kumar. After deducting 15% contributory negligence i.e. ₹214300/- Thus, total compensation comes out to ₹12,14,650/-. Therefore, the claimants shall be entitled to enhanced compensation to the tune of ₹5,16,800/- i.e. an amount in addition to the compensation of ₹697850/- already awarded by the Tribunal.

3. In the light of what has been discussed above, the appeal is partly allowed. Appellants-claimants No.1 and 3 shall be entitled to enhanced amount of ₹5,16,800/- in addition to the compensation already awarded. However, as per award liability to pay the compensation is jointly & severally on respondents No. 1 to 3. The insurance company-respondent No.3 is directed to pay the amount so enhanced within a period of 60 days

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 @ ₹6% per annum from the date of filing of the clam petition before the Tribunal till realization.

4. Parties to bear their own cost.

January 24, 2017
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No