

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 5428 of 2013 (O&M)

Date of Decision:19.9.2017

Rajbir Kaur and others

.....Appellants

Versus

Sukhwinder Singh and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajbir Singh, Advocate
for the appellants.

Mr. J.S. Dhaliwal, Advocate
for respondents No. 1 to 3.

Ms. Anamika Mehra, Advocate
for respondent No.4.

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 15.5.2013 passed by the Motor Accidents Claims Tribunal, Sangrur (for short 'the Tribunal').

While filing the appeal, there was a delay of 69 days, for which an application was moved.

For the reasons mentioned in the application, which is duly supported by an affidavit, delay of 69 days in filing the appeal is condoned.

The brief facts necessary for adjudication of the present appeal are noted:

Harjinder Pal Singh, a Soldier in Indian Army, lost his life in an unfortunate accident on 2.10.2011. His motor-cycle bearing registration No.PB-28-D-9856 was hit by a Mohindra Pick-up bearing registration No.PB-13-T-9262 and he died on the spot.

The claim petition was filed under Section 166 of the Motor

Vehicles Act, 1988 (for short 'the Act').

The Tribunal after considering the witnesses and evidence, awarded a sum of ₹ 52,44,444/-, which included ₹ 10,000/- on account of funeral expenses and ₹ 20,000/- on account of loss of estate, loss of love and affection and consortium.

The facts are not in dispute by either of the parties.

The only issue raised by learned counsel for the appellants is that the amount awarded under the conventional heads is very meager and no amount has been awarded separately under the various conventional heads.

I have heard learned counsel for the parties and perused the paper book.

The contention raised by learned counsel for the appellants that the amount of ₹ 10,000/- awarded for funeral expenses and ₹ 20,000/- consolidately awarded for loss of estate, loss of love and affection and loss of consortium, is on the lesser side.

Learned counsel for the respondent-Insurance Company was not able to raise any serious objection with regard to this argument though she defended the award by stating that ₹ 52,44,444/- had already been charged for dependency compensation.

The contention of learned counsel for the appellants has merit and has to be accepted.

Learned counsel for the appellant has not posed any challenge to the loss of dependency compensation awarded by the Tribunal.

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. Kunjamma 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 to 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.

As per the decision cited above, the claimants should have been awarded compensation under various heads and even the amount already awarded needs to be enhanced. The compensation awarded earlier and being enhanced now is reproduced in the table below:

<i>Sr. No.</i>	<i>Desclrpion</i>	<i>Amount earlier awarded by Tribunal</i>	<i>Amount now awarded</i>
1	Loss of dependency	₹ 52,14,444/-	₹ 52,14,444/-
2	Funeral expenses	₹ 10,000/-	₹ 25,000/-
3	Loss of Estate	₹ 20,000/-	₹ 35,000/-
4	Loss of love and affection (minor)	---	₹ 1,00,000/-
5	Loss of consortium	---	₹ 1,00,000/-
	Total :	₹ 52,44,444/-	₹ 54,74,444/-

The award dated 15.5.2013 is modified to the extent that the

amount awarded by the Tribunal of ₹ 52,44,444/- is enhanced to Rs.54,74,444/-.

So far as the amount of ₹ 1,00,000/- awarded for the loss of love and affection is concerned, the minor children would be entitled for the said amount which shall be kept in a fixed deposit in a nationalized bank till their attaining the age of majority.

The claimants shall be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is accordingly partly allowed and is disposed of accordingly.

19.09.2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No