

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5690 of 2014

Date of decision:- May 01, 2017

KAUSHALYA DEVI AND OTHERS

....APPELLANTS..

VS.

PAWAN KUMAR @ PAWNA AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. P.K. Ganga, Advocate for the appellants.

Mr. B. S. Taunque, Advocate,
for respondent No.3-Insurance Company.

JASPAL SINGH, J.

Dissatisfied with the award dated 25.10.2013, passed by Motor Accident Claims Tribunal, Sirsa (for brevity, "Tribunal") in Claim Petition No.14 of 2012, captioned as "*Kaushalya Devi and others v. Pawan Kumar @ Pawna and others*" under Section 166 of the Motor Vehicles Act, 1988 (for short, "Act"), whereby the claimants were awarded compensation to the tune of ₹10,73,000/- along with interest @ 7.5% per annum, on account of death of Ram Chander in an accident occurred on 20.11.2011 in the area of Village Nathusari Kalan, Bhadra Sirsa Road, the appellants/claimants have preferred the instant appeal for enhancement thereof.

2. While holding that death of Ram Chander son of Shiv Chand @ Sheo Chand has occurred due to the accident, which took place on

20.11.2011 due to the rash and negligent driving of tractor bearing Registration No. PB-19-F6594 by its driver-Pawan Kumar @ Pawna and further that since offending 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 Id. Tribunal on the basis of evidence adduced by the appellants-claimants assessed the income of deceased-Ram Chander to the tune of ₹6000/- per month. After having deducted 1/4th of the amount in consideration of the expenses which the deceased would have incurred towards maintaining himself had he been alive, annual dependency was worked out to the tune of ₹54,000/- (4500x12). Since, Ram Chander was aged about 40 years at the time of his demise, multiplier of 15 was correctly applied.

4. However, the Id. tribunal has committed an error while not awarding just and proper and adequate compensation on account of funeral expenses, loss of consortium and loss of love and affection. On account of mental pain and sufferings, loss of consortium and loss of love and affection, only a meagre sum of ₹10,000/- has been awarded whereas on account of funeral expenses and transportation etc. only a sum of ₹10,000/- has been granted. 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 compensation on account of loss of consortium and loss of love and

affection to the tune of ₹1,00,000/- each i.e. ₹2,00,000/-. Similarly, claimants are also entitled to a sum of ₹25,000/- on account of funeral expenses as against a sum of ₹10,000/- already awarded by the Id. Tribunal i.e. ₹15,000/- more. Thus, the total compensation works out to ₹12,78,000/- As such, the claimants are entitled to enhanced compensation to the tune of ₹2,05,000/- i.e. an amount in addition to the compensation already awarded by the Id. Tribunal i.e. ₹10,73,000/- only.

4. In the light of what has been discussed above, the appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹2,05,000/- 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.

May 01, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes