

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No. 5732 of 2014
Date of decision: 26.09.2017

Saroj Bala @ Saroj Rani and Ors.

...Appellants

Versus

Ram Singh and Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Amandeep Singh Mann, Advocate
for Mr. S.K. Garg, Advocate for the appellants.

Mr. Puneet Sharma, Advocate for respondent No. 3.

AVNEESH JHINGAN, J. (ORAL)

The present appeal has been filed against the award dated 07.02.2014 passed by the Motor Accident Claims Tribunal, Bathinda(for short, 'The Tribunal').

The facts relevant for decision of the present appeal are that Sanjeev Kumar alias Sanjay Kumar lost his life in an accident which occurred on 26.10.2012. Sanjeev Kumar was going to his duty on his Motor Cycle bearing registration No. PB-03AB-7424, near TPD College, Rampura, a truck bearing registration No. PB-03V-9056 (for short, 'The Offending Vehicle') struck the motorcycle. As a result Sanjeev Kumar suffered grievous injuries and died on the spot. FIR No. 83, dated 27.10.2012, under Sections 304-A, 279 and 427 IPC was registered at Police Station Phul.

A claim petition under Section 166 of the Motor Vehicles Act, 1988(for short, 'The Act') was filed by the parents, brother and sister of the

deceased.

Tribunal awarded ₹4,88,000/- along with 6% interest per annum. This amount included ₹2,000/- for funeral expenses.

There is no dispute with regard to the facts of the case by either of the parties. The age of the deceased was 22 years at the time of accident. There is no dispute about rash and negligent driving of offending vehicle.

The only issue in the present appeal is regarding enhancement of the amount awarded by the Tribunal.

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

Learned counsel for the appellants has argued that parents have lost a young son of 22 years old and no amount has been awarded by the Tribunal for loss of love and affection. Further he contended that ₹2,000/- awarded for funeral expenses is on the lower side.

Learned counsel for the respondent argued that the claimants were not able to produce income proof of the deceased, in spite of that, tribunal awarded ₹ 4,88,000/- as compensation and no further enhancement is called for.

The contentions raised by learned counsel for the appellants deserves acceptance. So far as the enhancement of compensation under conventional heads is concerned. The Hon'ble 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.*

From 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.

From the perusal of above decision it is clear it is evident that Apex Court had awarded amount for loss of love and affection to parents.

Keeping in view the facts and circumstances of the case, the

claimants are awarded ₹50,000/- under the heads of loss of love and affection and the amount of ₹ 2,000/- awarded for funeral expenses is enhanced to ₹25,000/-.

The award dated 07.02.2014 passed by the Tribunal is modified to the extent that the amount of ₹ 4,88,000/- awarded by the Tribunal is enhanced to ₹ 5,61,000/-.

The claimants shall be entitled to the enhanced compensation along with interest at the rate of 6% per annum from the date of filing of the claim petition, till its realization.

The appeal is partly allowed and disposed of.

September 22, 2017

Poonam (II)

**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No