

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5734 of 2015 (O&M)

Date of Decision: 11.9.2017

Amarjit Kaur and another

.....Appellants

Versus

Karanvir Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vijay Kumar, Advocate
for the appellants.

Mr. Vicky Sharma, Advocate
for respondents No. 1 and 2.

Ms. Anamika Mehra, Advocate and
Mr. Paul S. Saini, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.

The present appeal is filed against the award dated 27.1.2015 passed by the Motor Accidents Claims Tribunal, Patiala (for short 'the Tribunal).

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

Bhupinder Singh (deceased) while going on his bicycle to his work place at Patiala was hit by swift car bearing registration no. PB-11AG-0800 which was being driven rashly and negligently. As a result of accident, he suffered multiple injuries and ultimately succumbed to his injuries on 14.4.2014. The claim petition under Section 166 of Motor Vehicles Act, 1988 (for short 'the Act') was filed by the widow and son of the deceased.

The Tribunal, after considering the witnesses and evidence, awarded an amount of ₹ 9,89,969/- which included medical expenses of ₹

1,88,969/-, ₹ 1,00,000/- for loss of consortium and ₹ 25,000/- on account of funeral expenses.

The facts of the case are not disputed by either of the parties. The only dispute is that the Tribunal has taken the salary as ₹ 5000/- per month whereas the claim was made with regard to ₹ 7500/- per month.

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

The deceased was working with M/s Jagdamba Enterprises, D-263, Focal Point, Patiala and was earning ₹ 7500/- per month. In order to establish their claim, the widow of the deceased stepped into the witness box. Salary certificate Ex.C89 was produced showing salary of ₹ 7500/- per month of the deceased. Not only that, CW4-Bhushan, Accountant of M/s Jagdamba Enterprises also deposed that the salary of the deceased was ₹ 7500/- per month and an affidavit Ex.CW4/A was also filed.

Learned counsel for the appellants argued that inspite of the evidence and witnesses, the Tribunal erred in holding that the deceased was earning ₹ 5000/- per month.

Learned counsel for the respondents argued that the deceased was working in a private firm and there was only a certificate issued by the private firm and the Accountant of the private firm was produced to support the claim and hence, the Tribunal has rightly taken the figure of ₹ 5000/- per month.

A perusal of the award itself shows that the claimants were able to establish beyond any doubt the earning of the deceased as ₹ 7500/- per month. The salary certificate was not disputed. Even the statement given by the Accountant of the employer firm was neither disputed nor anything

wrong came out in the cross-examination. Inspite of all this, the Tribunal still stated that apart from these evidences, the claimants have not been able to produce any other thing to support the earning of the deceased. The deceased was working in a private firm, possibly no other evidence to support his monthly income could have been produced.

In such circumstance, the award of the Tribunal is modified to the extent that the compensation is calculated by taking the monthly income of the deceased as ₹7500/-.

Sr.No.	Description	Amount
1	Total income of the deceased	₹ 90,000/-
2	30% Future prospects as already awarded by the Tribunal	₹ 27,000/-
3	Total	₹ 1,17,000/-
4	Less 30% deduction	₹ 39,000/-
5	Net Total	₹ 78,000/-
6	Multiplier of 13 (78000 x 13)	₹ 10,14,000/-

The Tribunal has erred in not granting compensation for loss of love and affection.

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 of the minor children.

While following decisions of Hon'ble the Apex Court, as referred above, a sum of ₹ 50,000/- is awarded for loss of love and affection.

<i>Sr. No.</i>	<i>Heads</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Now awarded</i>
1.	Dependancy compensation	₹ 6,76,000/-	₹ 10,14,000/-
2.	Loss of consortium	₹ 1,00,000/-	₹ 1,00,000/- (no change)
3.	Funeral expenses	₹ 25,000/-	₹ 25,000/- (no change)
4.	Medical expenses	₹ 1,88,969/-	₹ 1,88,969/- (no change)
5.	Loss of love and affection	No amount	₹ 50,000/-
	Total:	₹ 9,89,969/-	₹ 13,77,969/-

The appeal is accordingly partly allowed and the award dated 27.1.2015 is modified as discussed above and an amount of ₹ 9,89,969/- awarded by the Tribunal is enhanced to ₹ 13,77,969/- and the same is rounded up as ₹ 13,78,000/-. The claimants shall be entitled to the enhanced amount along with interest at the rate of 6% per annum from the date of claim petition till its realization.

11.09.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No