

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 6024 of 2015 (O&M)

Date of Decision: 13.10.2017

Baljit Kaur and others

.....Appellants

Versus

Amar Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Ms. Parminder Kaur, Advocate for
Mr. Rakesh Verma, Advocate
for respondent No.2.

Mr. R.N. Singal, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 28.4.2015 passed by the Motor Accidents Claims Tribunal, Ludhiana (for short 'the Tribunal').

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

Hoshiar Singh met with a motor vehicular accident on 7.1.2013. He was hit by a truck bearing registration No. PB-05-P-7802. He suffered multiple injuries and was taken to Civil Hospital, Jagraon, where he succumbed to injuries.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by the widow and three major children of the deceased.

The Tribunal awarded a sum of ₹ 24,68,000/- along with interest at the rate of 7.5% per annum.

There is no dispute on the facts of the case by either of the parties. The only issue raised in the present appeal by learned counsel for the appellants is that no amount has been awarded under the conventional heads i.e. for loss of consortium, loss of love and affection and the amount awarded for funeral expenses, needs to be enhanced.

Learned counsel for respondent No.3 -Insurance Company has opposed the enhancement.

The contention raised by learned counsel for the appellants has substance and deserves acceptance.

The Tribunal while awarding the compensation ought to have considered and awarded compensation under the heads of loss of consortium and loss of love & affection, even if the children were major. The funeral expenses awarded also needs to be enhanced.

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. Kunjujamma 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.

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 and further need to be increased from time to time.

With regard to awarding compensation for loss of love & affection to major children, this Court in **Smt. Gurdev Kaur and others Versus Jharmal Singh and another**, 2017 (3) The Punjab Law Reporter 9, has held as under:

“.....Appellants-claimant No.2 to 5 who are the major sons and daughters of the deceased also cannot be deprived of the compensation on account of loss of love and affection simply on the ground that they are major. It is a fact of common knowledge that in our society father enjoys the unique position. Even the major children have lot of love and respect for their father. They also seek guidance and advice of their father for the important matters in their life and family. Thus, appellants-claimants No. 2 to 5 shall certainly be entitled to the compensation on account of loss of love and guidance of their father to the extent of ₹ 2,00,000/-.....”

This Court in **Munshi Ram and another Versus Balkar Singh and others**, 2016 (2) PLR 526, has held as under:

“4. As regards the quantum in FAO 598 of 2014, the deceased was 51 years of age and a housewife. The claimants were the husband and major son and major daughter. The Tribunal took the value of her services at Rs.2500/-. The counsel argues that there must be prospects of increase. Taking the value of services at Rs.4500/- and allowing for a multiplier of 11 suitable to the age of deceased, I will provide for the lakh of rupees for loss of consortium to the husband and make a further provision of

Rs.25000/- to each major son and daughter for loss of love and affection.”

Keeping in view the facts and circumstances of the case and the law discussed above, an amount of ₹ 50,000/- is awarded for loss of love and affection and ₹ 50,000/- is awarded for loss of consortium and funeral expenses are enhanced from ₹ 20,000/- to 25,000/-.

The award dated 28.4.2015 is modified to the extent that the amount awarded by the Tribunal of ₹ 24,68,000/- is enhanced to ₹ 25,73,000/-.

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

13.10.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No