

**217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-7255-2015
Date of decision: 25.09.2017

Shivamati Devi and another Appellants

Versus

Ishak and others Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Ms. Deepa Jain, Advocate for
Mr.Y.D.Kaushik, Advocate
for the appellants.

Mr. Pradeep Kumar, Advocate
for Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 05.08.2015 passed by Motor Accidents Claims Tribunal, Faridabad (hereinafter referred to as the 'Tribunal').

On 09.10.2014, Manjeet Kumar, aged 20 years, lost his life in an accident. He was going on his motorcycle bearing registration No.HR-29AG-9606. Near Sector 24, Faridabad, he was struck by a truck bearing registration No.HR-38N-2951 (for short, 'the offending vehicle'). He was run over by the said truck and died on the spot. FIR No.474 dated 09.10.2014 was registered at Police Station Mujessar, Faridabad.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was moved by the parents of the deceased.

The Tribunal after considering the witnesses and evidence, awarded a sum of Rs.5,29,000/- along with interest of 7.5% per annum. The

said amount included Rs.25,000/- towards funeral expenses.

I have heard the learned counsel for the parties and have perused the paper-book with their able assistance.

There is no dispute on the facts of the case. The rash and negligent driving of the offending vehicle is also not in dispute.

The only issue raised by learned counsel for the appellant is that the deceased was 20 years of age and multiplier of 14 has been applied instead 18 should have been applied. Learned counsel for the appellant contended that no amount for loss of love and affection has been awarded to the claimants.

Learned counsel for the Insurance Company defended the award and said that no further enhancement is required in the said case as he was a bachelor and dependents are only the parents.

The contentions raised by learned counsel for the appellant deserves acceptance and learned counsel for the respondent could not raise any serious objection with regard the multiplier as per *Sarla Verma's* case.

The issue regarding multiplier has no longer res-integra and in case **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, observed as under :-

“21. We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-

16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.”

From the perusal of the above decision, it is clear that in case the deceased is 20 years, the multiplier of 18 has to be applied.

Hon'ble the Apex Court in **Asha Verman and others Vs. Maharaj Singh and others, 2015(4) SCC (Civil) 767**, held as under:

*“18. Further, we award Rs.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 Rs.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 the perusal of the above decision, the loss of love and affection should be awarded to the parents.

Keeping in view the observations above, the loss of dependency has calculated as under :-

<i>Sr.No.</i>	<i>Heads</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Now awarded</i>
<i>1</i>	<i>Loss of dependency</i>	<i>Rs.36,000x14= Rs.5,04,000/-</i>	<i>Rs.36,000x18= Rs.6,48,000/-</i>
<i>2</i>	<i>Funeral expenses</i>	<i>Rs.25,000/-</i>	<i>Rs.25,000/-</i>
<i>2</i>	<i>Loss of love and affection</i>	<i>Not awarded</i>	<i>Rs.50,000/-</i>
	<i>Total</i>	<i>Rs.5,29,000/-</i>	<i>Rs.7,23,000/-</i>

The award dated 05.08.2015 is modified to the extent that the amount awarded by the Tribunal of Rs.5,29,000/- awarded is enhanced to Rs.7,23,000/-.

The claimant shall be entitled to enhanced amount along with interest as awarded by the Tribunal.

The appeal is disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

25.09.2017
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Note:

- 1.Whether the order is speaking/reasoned: Yes
- 2.Whether the order is reportable : Yes