

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

FAO-133-2017 (O&M)
Date of decision: 25.10.2017

Ramrati and others

.... Appellants

Versus

Jaswinder Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Umesh Kumar Kanwar, Advocate
for the appellants.

Mr. Paul S.Saini, Advocate
for respondent No.3.

Avneesh Jhingan, J.

The present appeal has been preferred against the award dated 18.12.2015 passed by Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter referred to as the 'Tribunal').

On 20.11.2014, Vindar Prasad @ Binder, aged 60 years, was hit by rashly and negligently driven bearing registration No.PB-03Y-8300 (for short, 'the offending vehicle'). As a result of the accident, he died on the spot. FIR No.64 dated 20.11.2014 was registered.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the widow, two major sons and one minor daughter of the deceased.

The Tribunal after considering the witnesses and evidence, awarded a sum of Rs.5,95,500/- along with interest @ 9% per annum.

Aggrieved of the said order, the present appeal has been filed for

enhancement of compensation.

I have heard the learned counsel for the parties and perused the paperbook with their able assistance.

The facts are not disputed by any of the party.

Learned counsel for the appellant has argued that the deceased was 60 years old and his monthly income was taken as Rs.5500/- per month on mere guess work. He contends that even as per the minimum wages, an unskilled labourer during the relevant time was getting salary of Rs.6660/- per month. The Tribunal should have at least taken the monthly income as per the minimum wages. He has not disputed for 1/4th deduction of self expenses and multiplier of 9 as applied by the Tribunal.

Learned counsel for respondent No.3 could not raise any serious objection if the income is taken as Rs.6600/- per month. The loss of dependency is recalculated as below:-

<i>Income</i>	<i>Rs.6660/-</i>
<i>Annual income</i>	<i>Rs.6660x12=79,920/-</i>
<i>1/4th deduction for self expenses</i>	<i>Rs.19,980/-</i>
<i>Dependency</i>	<i>Rs.79,920/- -Rs.19,980/-=Rs.59,940/-</i>
<i>Applying multiplier of 9</i>	<i>Rs.Rs.59,940/-x 9=Rs.5,39,460/-</i>

Learned counsel for the appellant has argued that no amount has been awarded for loss of love and affection to the minor daughter and two major sons. He further contended that the funeral expenses awarded of Rs.20,000/- are on the lower side and needs to be enhanced. No amount has been awarded for transportation of dead body.

Learned counsel for respondent No.3 has argued that amount of Rs.30,000/- has been awarded for general damages and no further

enhancement is called for.

The contention raised by learned counsel for the appellant has substance. The deceased was survived by widow, two major sons and one minor daughter. The minor daughter has lost the guidance of her father. The children even though major have lost the love and affection of their father. In an Indian family, the age of the children is immaterial so far as the parental love and affection and guidance is concerned.

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 Rs.5,000/- each towards loss of estate, funeral expenses and loss of consortium. We award Rs.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, Rs.25,000/- towards funeral expenses and Rs.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 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. 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 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.*

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.”

From the decisions cited above, it is evident that the amount is to be awarded for loss of love and affection to the minor children as well as to the major children. The loss of guidance to minor children has also to be considered.

In view of the above decisions and considering the facts and circumstances of the case, Rs.1 lakh is awarded for loss of love and affection and for loss of guidance of the father.

As Vindar Prasad @ Binder died on the spot, his body must have been carried to hospital and home, keeping in view the fact the funeral

expenses of Rs.20,000/- are enhanced to Rs.25,000/-. The enhancement is shown in a tabular form as under :-

<i>Sr.No.</i>	<i>Heads</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Now awarded</i>
1	Loss of dependency	Rs.4,45,500/-	Rs.5,39,460/-
2	Funeral expenses	Rs.20,000/-	Rs.25,000/-
3	General damages	Rs.30,000/-	Rs.30,000/-
4	Loss of consortium	Rs.1,00,000/-	Rs.1,00,000/-
5	Loss of love and affection	Not awarded	Rs.1,00,000/-
	Total	Rs.5,95,500/-	Rs.7,94,460/-

The award dated 18.12.2015 is modified to the extent that the amount awarded by the Tribunal of Rs.5,95,500/- is enhanced to Rs.7,94,460/-.

The claimant shall be entitled to enhanced amount along with interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

25.10.2017
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- 1.Whether the order is speaking/reasoned: Yes
- 2.Whether the order is reportable : Yes