

F.A.O. No. 7610 of 2016 (O&M)

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

F.A.O. No. 7610 of 2016 (O&M)

Date of Decision: 11.10.2017

Charanjit Kaur and others

.....Appellants

Versus

Satnam Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

**Present: Mr. C.S. Singh, Advocate
for the appellants.**

**Mr. Gopal Mittal, Advocate
for respondent No.3.**

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 21.7.2016 passed by the Motor Accidents Claims Tribunal, Patiala (for short 'the Tribunal').

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

Gurdial Singh, aged 55 years, lost his life in a motor vehicular accident on 30.9.2015. While going on his motor cycle, he was struck by rashly and negligently driven motor cycle bearing registration No.PB-11-AS-0374. He was taken to Rajindra Hospital, Patiala, where he succumbed to injuries.

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

The Tribunal after considering the material before it, awarded a

sum of ₹ 10,17,000/-. With regard to the interest, the Tribunal observed that

the claimants would be entitled to interest only if the amount awarded is not paid within two months from the date of the award.

Aggrieved of the said award, the present appeal has been filed.

Heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellants contended that the Tribunal while awarding compensation has not awarded anything for loss of estate. Learned counsel further argued that as per Section 171 of the Act, the Tribunal ought to have awarded interest.

Learned counsel for the respondent No.3 vehemently defended the award but could not raise any serious objection to the awarding of amount for loss of estate.

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

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.

From the perusal of the above decisions, it is evident that the Tribunal ought to have granted compensation for loss of estate.

Thus, keeping in view the fact that the deceased was an agriculturist, an amount of ₹ 50,000/- for loss of estate is awarded.

The Tribunal has neither given any reason for not awarding interest nor has dealt with the interest issue separately as has been held by Hon'ble the Apex Court.

The contention of learned counsel for the appellant with regard to awarding of interest, also deserves acceptance.

Hon'ble the Supreme Court in Dharampal and others Versus U.P. State Road Transport Corpn. 2008 (12)SCC 208 has held as under:

"8.As per Section 171 of the Motor Vehicle Act, 1988 (hereinafter referred as 'Act') where the claim for compensation made under the act is allowed by the Claims Tribunal, the tribunal may direct that in addition to the amount of compensation simple interest shall also be paid *at such rate* from such date not earlier than the date of making claim.

9. In **National Insurance Company Ltd. Vs. Keshav Bahadur, reported in 2004(2) RCR (Civil) 99 : (2004) 2 SCC 370** this court has held that the provisions require payment of interest in addition to compensation already determined. Even though the expression "may" is used, a duty is laid on the Tribunal to consider the question of interest separately with due regard to the facts and circumstances of the case. It was clearly held in the said decision that the provision of payment of interest is discretionary and is not and cannot be bound by rules.

10. Interest is compensation for forbearance or detention of money, which ought to have been paid to the claimant. No rate of interest is fixed under Section 171 of the Act and the duty has been bestowed upon the court to determine such rate of interest."

In view of decision of Hon'ble the Apex Court, interest should have been awarded by the Tribunal.

In the facts of the present case, the claimants shall be entitled to interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The award dated 21.7.2016 is modified to the extent that apart from the amount already awarded, ₹ 50,000/- is awarded for loss of estate and the claimants are entitled to interest on awarded amount and the enhanced amount.

The appeal is accordingly partly allowed in the aforesaid terms.

11.10.2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No