

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

FAO-608-2017 (O&M)
Date of decision: 26.10.2017

Jai Dei and others

.... Appellants

Versus

Ram Kishore and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Sukhdeep Parmar, Advocate
for the appellants.

Mr.M.B.Jain, Advocate
for respondent No.3.

Avneesh Jhingan, J.

The present appeal has been preferred against the award dated 11.01.2016 passed by Motor Accidents Claims Tribunal, Palwal (hereinafter referred to as the 'Tribunal').

On 09.12.2013, Lekhraj, aged 50 years, was going on motorcycle. He was struck by rashly and negligently driven tractor bearing registration No. HR-30L-0934. As a result of the accident, he died on the spot. FIR No.456 dated 10.12.2013 was registered.

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

The Tribunal after considering the witnesses and evidence, awarded a sum of Rs.6,48,000/- along with interest @ 7.5% 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.

Learned counsel for the appellants contends that the loss of dependency has been wrongly assessed by the Tribunal by considering the monthly income of deceased as Rs.4500/-. He contended that the minimum wages at the relevant time was Rs.5340/-. He further contended that the amounts awarded for funeral expenses, loss of estate and loss of love and affection are on the lower side.

Learned counsel for respondent No.3 opposed enhancement and argued that since the income was not proved therefore, the Tribunal rightly assessed the loss of dependency by taking the monthly income as Rs.4500/-.

The contentions raised by learned counsel for the appellant deserve acceptance.

In the absence of any proof of income, it would be appropriate to consider the minimum wages for unskilled labourer prevailing at the time of accident which was Rs.5342/-. In the present case, the loss of dependency is calculated by taking the monthly income of the deceased as Rs.5350/- and 1/3rd deduction for self expenses has been made by the Tribunal. Multiplier of 13 has been applied which is not disputed. The loss of dependency is recalculated as per table given below:-

Income	Rs.5350/-
Annual income	Rs. 5350 x12=64,200/-
1/3 rd deduction for self expenses	Rs.21,400/-
Dependency	Rs.64,200-Rs.21,400=Rs.42,800/-
Applying multiplier of 13	Rs.42,800/-x 13=Rs.5,56,400/-

The contention of the learned counsel for the appellants with regard to the enhancement of compensation for loss of love and affection, funeral

expenses and loss of estate deserve acceptance in view of the law laid down by

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 **Jiju 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.*

From the perusal of the above decision, the position emerges is that not only the compensation should be awarded under the various conventional heads but same should be increased from time to time.

In the present case, the deceased was survived by widow and two children one of them was minor. Taking into consideration the fact that the minor child not only lost the love and affection but also the guidance of the father, compensation for loss of love and affection needs to be enhanced. Even while awarding the compensation for funeral expenses, the transportation of dead body should also be taken care of. Deceased-Lekhraj after the accident was taken to the hospital, he died at the spot but it has come on record that the dead body was taken to hospital. The amount spent on transportation of body should have been considered.

Keeping in view the facts and circumstances of the case, the amounts awarded by the Tribunal are enhanced as per table given below :-

<i>Sr.No.</i>	<i>Heads</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Now awarded</i>
1	Loss of dependency	Rs.4,68,000/-	Rs.5,56,400/-
2	Funeral expenses	Rs.20,000/-	Rs.25,000/-
3	Loss of love and affection	Rs.50,000/-	Rs.1,00,000/-
4	Loss of estate	Rs.10,000/-	Rs.50,000/-
5	Loss of consortium	Rs.1,00,000/-	Rs.1,00,000/-
	Total	Rs.6,48,000/-	Rs.8,31,400/-

The award dated 11.01.2016 is modified to the extent that the amount awarded by the Tribunal of Rs.6,48,000/- is enhanced to Rs.8,31,400/-.

The claimants 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

26.10.2017

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