

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

FAO No.3491 of 2003

Date of decision: 8th January, 2015

Pushpa Rani and another

... Appellants

Versus

Karnail Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Pawan Atri, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

Service of respondent No.1 – exempted.

Mr. D.R. Bansal, Advocate – Standing Counsel
for respondent No.2.

FATEH DEEP SINGH, J.

This is an appeal against the Award dated 23.05.2003 of learned Motor Accident Claims Tribunal, Kurukshetra by virtue of which the learned Tribunal considering the plea of claimants under the provisions of Section 163-A as well as Section 166 of the Motor Vehicles Act, 1988 (in short, 'the Act') had allowed the claim petition in

terms of Section 163-A of the Act granting compensation to the tune of ₹1,30,000 for the death of deceased Joginder Singh.

Heard Mr. Pawan Atri, Advocate appearing on behalf of Mr. Ashit Malik, Advocate for the appellants and Mr. D.R. Bansal, Advocate representing the insurer/respondent No.2.

Since the original records stood destroyed in fire, not much is available in the reconstructed file. However, as per the arguments and the remnants of the records, deceased Joginder Singh is admitted to be around 44 years of age at the time of his death in a motor vehicular accident that took place on 02.05.2001 around 12.00 noon in the area of Shahbad. It is also not put to question that the deceased was working as a driver of truck bearing registration No.HRX-5919 and while driving the truck the same got entangled in overhead wires leading to his death due to electrocution. The claimants are the unfortunate widow and young unmarried daughter, who claim that they were the dependents upon the deceased. It is neither challenged nor put to assailment as to the manner of the accident and thus, findings of the learned Tribunal on issue No.1 needs to be upheld having attained finality.

The learned Tribunal has taken salary of the deceased to be ₹1,000 per month which is certainly keeping in view his avocation at the time of his death much below the actual daily-wages prevalent at that time. The learned Tribunal ought to consider the same as

₹2,500 which would be just and fair and therefore, keeping in mind the number of dependents and the socio economic status of the family after deducting 1/5 from these earnings on his own upkeep and maintenance dependency of the claimants comes to ₹2,000 per month and so the annual dependency to ₹24,000. To the very query of the Court the learned counsel representing the respondent/insurer could not controvert the fact that the second Schedule attached to the Act covers such cases under Section 163-A has become obsolete with the passage of time and it has been repeatedly held so by different pronouncements of the Hon'ble Apex Court. Taking a realistic approach into the matter having regard to the very object of the Act, multiplier of 15 appears to be the most appropriate and therefore, compensation comes to ₹3,60,000.

Besides this, the family must have spent money on the last rites and ceremonies of the deceased and also needs to be compensated for the loss of love and affection, wife has lost her husband, the daughter her father and under all these conventional heads including loss of consortium to the widow by some amount of guesswork and hypothetical assessment an amount of ₹1.50 lacs is awarded to the claimants. Therefore, total compensation comes to ₹5,10,000 (rupees five lacs ten thousand).

Besides this, the claimants are also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the

appeal till realization. Interim compensation paid, if any, shall be adjusted. Rest of the stipulations laid down by the Tribunal need not be disturbed.

No other argument has been raised.

With these modifications in the impugned Award the appeal stands allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

January 8, 2015
rps