

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

**FAO No. 5768 of 2004
DECIDED ON: OCTOBER 20, 2015**

SEEMA BEGUM & ORS

.....APPELLANTS

VERSUS

ORIENTAL INSURANCE CO LTD. & ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

- 1. Whether the Reporters of the Local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or?**
- 3. Whether the judgment should be reported in the digest?**

Present:- Mr. M.K. Singla, Advocate
for the appellants.

Mr. Ram Avtar, Advocate
for respondent No.1.

JASPAL SINGH, J

Instant appeal has been preferred against the award dated November 02, 2004 passed by Motor Accident Claims Tribunal, Sangrur whereby, while disposing of petition under Section 163-A of the Motor Vehicles Act, 1988 (for short 'Act') a sum of ₹2,85,600 was awarded to the claimants as compensation on account of death of Budhu @ Nazir Khan in a vehicular accident alleged to have occurred on December 02, 2003.

Appellants have sought enhancement of compensation so awarded by the

learned Tribunal by way of instant appeal.

2. The claim petition was moved under Section 163-A of the Act seeking compensation on account of death of Budhu @ Nazir Khan. Since the compensation has been sought under Section 163-A of the Act, the compensation has to be calculated and paid keeping in view second schedule of the Act. The peculiar feature of Section 163-A of the Act is that for a claim made therein, claimants are not required to plead or establish that the death or permanent disablement in respect of which, the claim has been made, was due to any wrongful act or neglect or default of the owner(s) of the vehicle(s) concerned. The scheme of Section 163-A of the Act is a departure from the general principle of law of tort that the liability of the owner of the vehicle to compensate the victim or his heirs in a motor accident arises only on the proof of negligence on the part of the driver. Section 163-A of the Act has done away with the said requirement, in case the victim opts to seek compensation under Section 163-A of the Act. In case an application is moved under Section 163-A of the Act, the compensation is to be paid as indicated in the second schedule.

3. Adverting to the facts of the case in hand, a sum of ₹2,85,600/- has been paid on account of loss of dependency which does not require any interference of this Court but at the same time, it would be pertinent to mention here that the general damages as provided in Schedule of the Act have not been awarded by the learned Tribunal, to which, the claimants are legally entitled and as per calculation of the amount so prescribed in the second schedule in respect of general damages, a total amount works out to

₹9500/- on account of loss of consortium and funeral expenses.

4. Ordered accordingly.

5. In the light of what has been discussed above, instant appeal is partly allowed and amount of compensation stands enhanced to ₹2,95,100/- as against an amount of ₹2,85,600/- awarded by learned Tribunal. The amount so enhanced by this Court shall be payable by the respondent-Insurance Company within a period of 45 days from the date of receipt of certified copy of this judgment and in case of its failure to do so, the enhanced amount shall carry interest @ 9.0 % per annum from the date of filing of claim petition. The other terms and conditions reflected in the relief clause by learned Tribunal shall remain unchanged. Parties are left to bear their own costs.

(JASPAL SINGH)
JUDGE

OCTOBER 20, 2015
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