

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

**FAO No. 5047 of 2013
DECIDED ON: OCTOBER 20, 2015**

RAJ RANI

.....APPELLANT

VERSUS

JASBIR AND OTHERS

.....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. Ravinder Malik, Advocate
for the appellant.

None for respondent No.1.

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

JASPAL SINGH, J

Instant appeal has been preferred against the award dated August 13, 2013 passed by Motor Accident Claims Tribunal, Ambala whereby, while disposing of petition under Section 163-A of the Motor Vehicles Act, 1988 (for short 'Act') a sum of ₹1,55,000 was awarded to the claimant as compensation on account of death of Simran in a vehicular accident alleged to have occurred on December 13, 2011 involving school

bus No. HR-37B-3892. Appellant has sought enhancement of compensation so awarded by the learned Tribunal by way of instant appeal.

2. Unfortunately, a student of Class 4th aged about 10 years lost her life in the accident and for seeking compensation on account of her death, claim petition was moved under Section 163-A of the Act. Since the compensation has sought under Section 163-A of the Act, the compensation is 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. In this context, we can have the references of pronouncements of Hon'ble Apex Court in the cases of **Reshma Kumari and others v. Madan Mohan and another; 2013 (9) SCC 65 and Puttamma and other v. K.L. Narayana Reddy and another; 2014 (1) RCR (Civil) 443.**

3. Adverting to the facts of the case in hand, only a sum of ₹1,55,000/- has been paid on account of loss of dependency and a sum of

₹5,000/- towards general damages. Whereas, while assessing the income of the deceased to the tune of ₹15,000/- per annum treated her to be a non-earning person and applying the multiplier of 15, the compensation payable works out to ₹2,25,000/-. Besides, it the claimants are entitled to compensation to the tune of ₹5000/- towards general damages as provided in second schedule. Thus the amount of compensation so awarded by learned Tribunal deserves to be enhanced.

4. In the light of what has been discussed above, instant appeal is partly allowed and amount of compensation stands enhanced to ₹2,30,000/- as against an amount of ₹1,55,000/- 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 @ 7.5 % 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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