

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

**FAO No.5449 of 2013.
Date of Decision: 24.08.2015.**

Raj Bala and othersAppellants.

VERSUS

Jaspal Singh and othersRespondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. L.M. Suri, Advocate for the appellants.

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

SNEH PRASHAR, J.

This was an appeal directed against an award dated 11.07.2013 passed by Motor Accident Claims Tribunal, Patiala (for short, “the tribunal”) in MACT case No.24 of 16.05.2012 titled “Raj Bala and others vs. Jaspal Singh and others”.

The prayer of the appellants-claimants is for enhancement of the compensation awarded by the tribunal. The facts indicate that on 26.04.2012 Sant Singh (husband of appellant No.1, father of appellants No.2 and 3 and son of appellants No.4 and 5) was travelling as a pillion

rider on the motorcycle being driven by his brother-in-law Jaspal Singh. Because of some vehicle coming in a fast speed from the opposite side Jaspal Singh took the motorcycle on the katcha berm beside the road. Since there was a hole in the katcha berm, Jaspal Singh could not control the motorcycle and he alongwith Sant Singh fell down with the motorcycle. Because of the injuries sustained by Sant Singh he died on 01.05.2012 during his treatment at P.G.I., Chandigarh.

A petition claiming compensation under Section 163-A of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) was filed by the appellants. Assessing the income of the deceased as Rs.3000/- per month, deducting 1/3rd of the income towards personal living expenses of the deceased and calculating the dependency at Rs.2000/- per month or Rs.24,000/- per annum and applying the multiplier of 13, an amount of Rs.3,12,000/- was awarded as compensation by learned tribunal. In addition to it, the appellants were also held entitled to Rs.5000/- for loss of consortium and loss of estate and Rs.2000/- as funeral expenses. In all, an amount of Rs.3,19,000/- was awarded as compensation to the appellants.

The submissions made by learned counsel representing the appellants and learned counsel representing respondent No.3 insurance company have been heard.

Learned counsel for the appellants submitted that the deceased was a carpenter by profession and the income assessed by learned tribunal as Rs.3000/- per month was on the lower side. He also contended that the deceased was 42 years of age and not 48 years as held by the tribunal. The

amount awarded under the head of loss of consortium and funeral expenses was also on lower side.

There is no merit in the arguments of learned counsel for the appellants. The claim petition was filed invoking the provisions of Section 163-A of the Act of 1988. Section 163-A is a special provision for payment of compensation on structured formula basis. It postulates that notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorized insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation as indicated in the Second Schedule of the Act of 1988, to the legal heirs or the victim, as the case may be.

It is clear from the above provision that compensation under the said Section is to be allowed as per the Second Schedule of the Act of 1988. As per the said schedule for assessing dependency the maximum income of the victim-deceased can be taken as Rs.40,000/- per annum. In the case in hand, the maximum annual income of the deceased was taken. Keeping that as basis the compensation was calculated. At the bottom of the Second Schedule there is a note that the amount of compensation so arrived at in the case of fatal accident claims shall be reduced by 1/3rd in consideration of the expenses which the victim would have incurred towards maintaining himself had he been alive. In accordance with the note, 1/3rd of the amount of compensation so arrived at was deducted towards personal expenses of the deceased and accordingly the compensation was

calculated as Rs.3,12,000/-. It was on the basis of the Ration Card of the family produced by the appellants that the learned tribunal held that the age of the deceased was 48 years. That was the only substantive document for proving the age of the deceased. In addition to the said amount, funeral expenses to the tune of Rs.2000/- and loss of consortium of Rs.5000/- as provided under the Second Schedule were also allowed.

Thus, the award passed by learned tribunal is very much in accordance with law and calls for no intervention. Accordingly, the appeal is dismissed.

(SNEH PRASHAR)
JUDGE

24.08.2015.
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