

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

FAO-3687-2003 (O&M)

Date of decision: 16.3.2016

Kanta Devi and another

...Appellants

Versus

Sukhdev Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.RS Mamli, Advocate for the appellants

Mr.DR Bansal, Advocate for respondent No.3.

SNEH PRASHAR, J.

This appeal is for enhancement of the compensation awarded by learned Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhri (in short 'the Tribunal'), vide award dated 12.8.2003 on account of death of Pawan Kumar, son of the appellants, in a road side accident.

The submissions made by learned counsel for the parties have been heard and record perused.

Learned counsel for the appellants argued that the deceased was employed in the Neel Giri Plywood Factory, Yamuna Nagar and was getting salary of Rs.3500/- per month, whereas learned Tribunal assessed his monthly income as Rs.1500/- per

month. No amount was added to the income computing future prospects. He further submitted that the amount awarded under conventional heads is inadequate.

Section 163A of the Motor Vehicles Act, 1988 (for short 'the Act of 1988') is a legislative innovation providing for strict liability that relieves the claimant of proving the normal principle of fault / wrongful act that is normative basis for claiming compensation from the tortfeaser. The legislature intended to provide a quicker means of securing compensation on a structured formula and made this provision applicable only to relatively poor class of persons and therefore, it sets a maximum limit of income, multiplier and deduction on which the benefit can be extended. This section contains certain inherent limitation on its applicability.

In the present case, the claim petition was filed under Section 163A of the Act of 1988. There is no dispute that the son of the claimants died due to the injuries sustained in an accident arising out of use of the truck bearing registration No.PB-29A-9561 (hereinafter referred to as 'the offending Truck'). He was aged about 17½ years at the time of the accident. There is no substantive evidence with regard to income of the deceased except the bald statement of PW1 Kanta Devi, mother of the deceased that he was employed in Neel Giri Plywood and was getting salary Rs.3000/- to

3500/- per month. Learned Tribunal assessed the monthly income of the deceased as Rs.1500/- which indeed is on the lower side. Keeping in view the age of the deceased and the minimum wages prevalent at the relevant time, the income of the deceased is assessed as Rs.2400/- per month instead of Rs.1500/-. As there can not be deviation from the limitation set down under Section 163-A of the Act of 1988 on some imaginative claims, there can be no addition to the income computing the future prospects.

Perusal of the award reveals that the multiplier of 19 was applied by learned Tribunal, which is not as per the Second Schedule of the Act of 1988. Since the age of the deceased was 17 plus years, the multiplier of 18 is to be applied. The amount awarded under the conventional heads is also enhanced to Rs.4500/- (Rs.2000/-on account of funeral expenses and Rs.2500/- on account of loss of estate)

Accordingly, the total compensation comes to as under:-

<i>Description</i>	<i>Detail of calculation</i>	<i>Amount (Rs.)</i>
Annual income of the deceased	Rs.2400x12	Rs.28800/-
Future prospects	Nil	
Deduction on account of personal living of the deceased	@ 1/3 rd of the income Rs.28800-9600	Rs.19,200/-
Amount after applying multiplier of 18	Rs.19,200x 18	Rs.3,45,600/-
Conventional heads (Funeral expenses and loss of estate)		Rs.4500/-
Total compensation		Rs.3,50,100/-

The enhanced amount of Rs.1,20,100/- (3,50,100 –

2,30,000/-) shall be paid to appellant No.1- Kanta Devi, as held entitled by learned Tribunal, within two months from the date of the receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of the filing of the appeal till its realisation.

In the above premises, the present appeal is partly allowed and the impugned award is modified as noticed above.

16.3.2016
gsv

(SNEH PRASHAR)
JUDGE