IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2318-2006
Date of decision: 16.2.2016

Malkiat Singh and another

...Appellants

Versus

Sewak Singh and another

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.SS Brar, Advocate for the appellants

Mr.Gopal Mittal, Advocate for the Insurance Company

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SNEH PRASHAR, J.

This appeal is for enhancement of the compensation awarded by learned Motor Accidents Claims Tribunal, Sirsa (in short 'the Tribunal'), vide award dated 17.3.2006 on account of death of Jagtar Singh, 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 as a cleaner on a truck and was getting salary of Rs.3200/- per month, whereas learned Tribunal assessed his monthly income as Rs.2400/- per month. No amount was added to the income computing future prospects. He further submitted that multiplier of 18 should have been applied as the deceased was a

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young man aged 21 years and 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 deceased died due to the injuries sustained in an accident arising out of use of the truck bearing registration No.RJ-31G-1062 (hereinafter referred to as 'the Truck'). He was 21 years of age. There is no substantive evidence with regard to income of the deceased except the bald statement of PW1 Malkiat Singh, father of the deceased that he was employed as Cleaner on a truck and was getting salary Rs.3200/- per month. But 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.3000/- per month instead of Rs.2400/-. 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 12 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 21 years, the multiplier is increased to 18. 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:-

Description	***Detail of calculation***	***Amount (Rs.)***
Annual income of the deceased	Rs.3000x12	Rs.36000/-
Future prospects	Nil	
Deduction on account of personal living of the deceased	@ 1/3rd of the income Rs.36,000-12000	Rs.24000/-
Amount after applying multiplier of 18	Rs.24,000x 18	Rs.4,32,000/-
Conventional heads (Funeral expenses and loss of estate)		Rs.4500/-
Total compensation		Rs.4,36,500/-

The enhanced amount of Rs.2,04,500/- (4,36,500 – 2,32,000/-) shall be paid to the appellants by the Insurance Company 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 reaslisation.

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

16.2.2016 **(SNEH PRASHAR)**
gsv **JUDGE**