

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

**FAO No.4746 of 2012 (O&M)
Date of Decision: December 01, 2016.**

Paramjit Kaur and others

.....APPELLANT(s).

VERSUS

Inderjeet Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sandeep Kotla, Advocate
for the appellant (s).

None for respondents No.1 to 3.

Mr. Harsh Aggarwal, Advocate
for respondent No.4-insurance company.

SURINDER GUPTA, J.

This is appeal against the award dated 05.06.2012 passed by Motor Accident Claims Tribunal, Fatehabad (later referred to as 'the Tribunal'), whereby the claim petition filed by claimants under Section 163-A of Motor Vehicles Act, 1988 (later referred to as 'the Act') was allowed and the appellants-claimants were awarded compensation amount to ₹4,44,700/- for the death of Kuldeep Singh (later referred to as 'the deceased') caused due to user of motorcycle bearing registration No.HR-99-EQ-2429.

As the only issue involved in this appeal relates to seeking of enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

Learned counsel for the appellants-claimants has argued that

the deceased was married and having a minor child. The Tribunal while computing the amount of compensation applied the multiplier of 17 while as per the age of the deceased, who was 22 years of age, the multiplier should be 18 as per the observations in case of *Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121*. He has further argued that the amount of damages towards funeral expenses (₹2000/-), loss of consortium (₹5000/-) to the wife and loss of estate (₹2500/-) to parents of the deceased, is on lower side. The Tribunal has awarded this amount as per second schedule to Section 163-A of the Act which was incorporated in the year 1994 and after the expiry of 13 years at the time of accident, the amount of compensation mentioned therein has become inadequate and insufficient. Even the Apex Court in many cases issued repeated directions calling upon the Central Government to amend the second schedule of the Act.

Learned counsel for respondent-insurance company has argued that the Tribunal awarded compensation strictly as per the provision of Section 163-A of the Act under which this petition has been filed. Multiplier as prescribed in the case of *Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra)* are applicable to the instant case as the claimants have claimed compensation under Section 163-A and not under Section 166 of the Act.

The claim petition was filed by the appellants-claimants under Section 163-A of the Act and as per second schedule to Section 163-A of the Act, the multiplier prescribed therein in case of death of a person aged 22 years, in motor vehicle accident is 17. In case of *Sarla Verma and others*

Vs. Delhi Transport Corporation and Anr. (supra), the applicability of multiplier was rationalised and it was prescribed that for the age group of 20 to 25, multiplier applicable is 18. The same multiplier can also be applied to the instant case. I also agree with the contention of learned counsel for the appellants that the amount of compensation awarded under the various heads under second schedule to Section 163-A of the Act has now become insufficient and inadequate with steep rise in prices of cost of living and in commodities of daily need. The Apex Court in number of cases has directed Union of India to amend second schedule which is awaited.

In view of this, the amount of compensation awarded by the Tribunal for funeral expenses is enhanced to ₹5000/-, loss of consortium to ₹10,000/- and loss to the estate ₹5000/-. The compensation to which the claimants are entitled, is revised as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹3200 per month i.e. ₹38400 per annum
(ii)	1/3 rd of (i) deducted as personal expenses of the deceased	₹38400-12800= ₹25600
(iii)	Compensation after multiplier of 18 is applied	(₹25600X18)= ₹460800
(iv)	Loss of consortium	₹10000
(v)	Loss of estate	₹5000
(vi)	Funeral and transportation expenses	₹5000
<i>Total</i>		₹4,80,800/-

The appeal has merits and is accepted. The award of the Tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹4,24,800/- to ₹4,80,800/- for the death of Kuldeep Singh. The enhanced amount of compensation will carry interest @

The amount of enhanced compensation shall be apportioned between the claimants as follows:-

- (i) Appellants No.1 and 2 i.e. widow and daughter : 40% each.
- (ii) Appellants No.3 and 4, parents of the deceased : 10% each.

Respondent No.3-insurance company will deposit the share of appellants-claimants No.1, 3 and 4 in their bank accounts or pay the same through demand drafts. The share of minor Surjeet-appellant No.2, who as per his age given at the time of filing of the petition is still minor, will be deposited in some nationalized bank as fixed deposit till the period he attains majority. It is, however, made clear that the bank may take the documents regarding the age of the minor as required at the time of deposit of the amount and the minor shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in his name after the date of attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually give to bring the order of the Tribunal to get the payment even after the minor claimant has attained age of majority. In case of demise of any of above claimant(s), his/her share of compensation shall be apportioned equally amongst other surviving claimants. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed ₹20,000/-.

December 01, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No