IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 5749 of 2012 (O&M)
Date of decision: 12.12.2016

Kalawati and others .... *Appellants*

Versus

Krishan Kumar and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Sandeep Verma, Advocate
for the appellants

None for respondents No. 1 and 2

Mr. Rajneesh Malhotra, Advocate
for the insurance company-respondent No. 3

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Rekha Mittal, J. (oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Mahabir in a motor vehicular accident that took place on 04.01.2008.

The Motor Accidents Claims Tribunal, Panipat (in short, 'the Tribunal') awarded compensation under Section 163-A of the Motor Vehicles Act, 1988 (in short, 'the Act') to the extent of Rs.3,67,000.00 by assessing income of the deceased at Rs.3,000.00 per month, deducted 1/3rd for personal expenses and applied a multiplier of 15 to compute loss of dependency at Rs.3,60,000.00. In addition, an amount of Rs.5,000.00 for loss of consortium to widow and Rs.2,000,00 for funeral expenses has been awarded.

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Counsel for the appellants has submitted that the claimants are entitled to increase in compensation by allowing benefit of future prospects as well as under conventional heads, allowed in the cases filed under Section 166 of the Act. For this purpose, he has referred to judgment of this Court ***Oriental Insurance Company Limited v. Gurdev Singh and others*** (FAO 951 of 2009 decided on 30.08.2012).

Counsel for the insurance Company, on the contrary, has submitted that under Section 163-A of the Act, claimant (s) cannot be allowed compensation more than what has been provided by the structured formula prescribed in Second Schedule to Section 163-A.

I have heard counsel for the parties and perused the paper book particularly the award passed by the learned Tribunal.

Hon'ble the Apex Court in ***Puttamma and others v K L Narayana Reddy in 2014(1) RCR (civil) 443*** has expressed its serious concern that the Second Schedule has now become redundant, irrational and unworkable, due to changed scenario including the present cost of living and current rate of inflation and increased life expectancy. Direction was issued to the Central Government to amend the Second Schedule of the Act, keeping in view the present cost of living. Till date, the legislature has not brought any amendment in the Second Schedule. The very fact that the Apex Court which has wider jurisdiction did not think it proper to tinker with the Second Schedule rather thought it fit to issue direction to the Central Government to make proper amendments, it is difficult to accept that this Court can add something to the Second Schedule or uphold plea of the claimants that they are entitled to compensation for future prospects and under conventional heads at par with or on the analogy followed in petitions

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filed under Section 166 of the Act. Under the circumstances, I find myself unable to accept submissions made by counsel for the claimants that they are entitled to benefit of increase in income for future prospects or additional compensation under conventional heads.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

(Rekha Mittal)
Judge

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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No

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