

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

FAO No.1844 of 2014 (O&M)

Date of decision : 20.05.2016

Hawa Singh and another

.....Appellants

Versus

Jagmehender and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. S.P. Chahar, Advocate for appellant.
 Mr. Sunil Sakoran, Advocate for respondent No.1.
 Mr. Ayuwan Singh, AAG, Haryana
 for respondents No.2 & 3.
 Mr. Sanjeev Goyal, Advocate for respondent No.4.

DARSHAN SINGH, J.

CM-6421-CII-2014

There is delay of 40 days in filing the present appeal. The appellants have filed an application under Section 5 of the Limitation Act read with Section 151 of the Code of Civil Procedure, 1908 for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the delay of 40 days in filing the present appeal is hereby condoned.

Main Appeal

The present appeal has been preferred against the award dated 03.09.2013, passed by the learned Motor Accidents Claims Tribunal, Rohtak (hereinafter called the 'Tribunal'), vide which in a petition filed under Section 163-A of the Motor Vehicles Act, 1988 (for short the 'Act') the appellants-claimants have been awarded compensation to the tune of Rs.2,57,400/- on account of death of Rajpal in the motor vehicular accident which took place on 04.06.2010.

2. The present appeal has been preferred by the claimants for the enhancement of the amount of compensation.

3. Learned counsel for the appellants-claimants contended that the compensation in this case was to be computed as per the Second Schedule appended to the Act as the claim petition has been filed under Section 163-A of the Act. He contended that the learned Tribunal has wrongly deducted 50% of the income of the deceased towards his personal and living expenses. He further contended that the wrong multiplier has been applied. Thus, the amount of compensation computed by the learned Tribunal is inadequate.

4. Learned counsel for the respondents could not repel the aforesaid contentions raised by learned counsel for the appellants.

5. The present claim petition has been preferred under Section 163-A of the Act, so the compensation is to be computed as per the Second Schedule appended to the Act. The learned Tribunal has determined the income of the deceased to be Rs.3300/- per month i.e. Rs.39,600/- per

annum. The learned Tribunal has applied the deduction to the extent of 50% towards the personal and living expenses, but this approach of the learned Tribunal is erroneous in view of the Second Schedule appended to the Act, which provides that the income of the deceased is to be reduced by 1/3rd towards the expenses which the victim have to incur towards maintaining himself as he has been alive. So, 1/3rd income of the deceased shall be deducted towards his personal expenses. The remainder comes to Rs.26,400/- (39,600 - 13,200).

6. Learned Tribunal has applied the multiplier of 13. The deceased was about 20 years of age. As per the Second Schedule, the multiplier of 16 shall be applicable. So, the multiplicand comes to Rs.4,22,400/-. In addition to that, the claimants shall be entitled to funeral expenses amounting to Rs.2000/- and loss of estate amounting to Rs.2500/-. So, the total amount of compensation comes to Rs.4,26,900/-.

7. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.4,26,900/- from Rs.2,57,400/- as awarded by the learned Tribunal. The appellants-claimants shall also be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

20.05.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**