

FAO No. 4819 of 2013(O&M)

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In the High Court of Punjab and Haryana at Chandigarh

FAO No. 4819 of 2013(O&M)

Date of Decision: 16.8.2016

Kamlesh

---Appellant

versus

Hawa Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Ishan S.Cooner, Advocate for the appellant
Mr. Ravi Gakhar, Advocate for respondent Nos. 1 and 2
Mr. Manmohan, Advocate for respondent No. 4

Rekha Mittal, J.

The claimant is in appeal seeking enhancement of compensation in respect of death of her son Naveen @ Badal in a motor vehicular accident that took place on 25.2.2010.

The claimant has been awarded compensation under Section 163- A of the Motor Vehicles Act, 1988 (in short "the Act") to the tune of Rs. 2,44,500/- under the following heads:-

Loss of dependency - Rs. 2,40,000/-

Funeral expenses - Rs. 2000/-

Loss of estate - Rs. 2500/-

Counsel for the appellant has submitted that compensation awarded by the Motor Accident Claims Tribunal, Jind (in short “the Tribunal”) is on lower side and needs enhancement. It is argued that as the deceased was a student of class IX, the Tribunal should have assessed his notional income to the tune of Rs. 30,000/- per annum. In support of his contention, he has referred to judgment of Hon'ble the Supreme Court ***Kishan Gopal and another vs. Lala and others 2013 (4) RCR(Civil)276.***

Counsel for the insurance company, on the contrary, has submitted that as the petition was filed under Section 163-A of the Act that has provided a structured formula by way of Second Schedule appended to Section 163-A and compensation has been assessed in strict consonance with the aforesaid formula, intervention in the award passed by the Tribunal is not warranted. It is further submitted that the judgment in ***Kishan Gopal and another's case (supra)*** was rendered by Hon'ble the Supreme Court in a case filed under Section 166 of the Act.

I have heard counsel for the parties, perused the paper

book particularly the award passed by the Tribunal.

It is an undisputed position of the case that the claimant file the petition by invoking Section 163-A of the Act for grant of compensation. As counsel for the appellant has failed to point out any error much less infirmity in the compensation awarded by the Tribunal by taking into consideration the structured formula provided in Second Schedule, I find myself unable to accept the submissions made by counsel for the appellant that compensation is liable to be enhanced by taking into consideration the judgment in *Kishan Gopal and another's case (supra)* rendered by Hon'ble the Apex Court in proceedings under Section 166 of the Act.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed. No order as to costs.

(Rekha Mittal)
Judge

16.8.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No