IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5542-2014 (O&M)
Date of decision: 4.3.2016

Master Subham and others

...Appellants

Versus

Charan Singh and another

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Abhinav Kalia, Advocate for the appellants

Mr.Pardeep Kumar, Advocate for respondent No.2.

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SNEH PRASHAR, J.

Seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') vide award dated 22.2.2014 on account of death of Kanti Devi, appellants No.1 & 2, sons and appellant No.3, husband have filed the present appeal.

A petition claiming compensation under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to 'the Act of 1988') was filed by the appellants-claimants. Assessing the income of the deceased as Rs.40,000/- per annum, deducting 1/3rd of the income on account of personal and living expenses of the deceased and applying the multiplier of 18, an amount of Rs.4,80,006 was awarded as compensation by learned Tribunal. In addition to it, the appellants were awarded Rs.9500/- for loss of consortium, estate and funeral expenses.

In all, a sum of Rs.4,90,000/- was awarded as compensation to the appellants.

The submissions made by learned counsel for the parties have been heard and record perused.

Learned counsel for the appellants raised two fold arguments (i) deduction of 1/3rd of the income on account of personal and living expenses of the deceased was on the higher side and (ii) the amount awarded under loss of consortium, estate and funeral expenses was on the lower side.

There is no merit in the arguments of learned counsel for the appellants. The claim petition was filed invoking the provisions of Section 163-A of the Act of 1988. Section 163-A is a special provision for payment of compensation on structured formula basis. It postulates that notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorized insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation as indicated in the Second Schedule of the Act of 1988, to the legal heirs or the victim, as the case may be. It is clear from the above provision that compensation under the said Section is to be allowed as per the Second Schedule of the Act of 1988. As per the said schedule for assessing dependency the maximum income of the victim-deceased can be taken as Rs.40,000/- per annum.

In the case in hand, the maximum annual income i.e.

Rs.40,000/- of the deceased was taken. Keeping that as basis the compensation was calculated. At the bottom of the Second Schedule there is a note that the amount of compensation so arrived at in the case of fatal accident claims shall be reduced by 1/3rd in consideration of the expenses which the victim would have incurred towards maintaining himself had he been alive. In accordance with the note, 1/3rd of the amount of compensation so arrived at was deducted towards personal and living expenses of the deceased and accordingly the compensation was calculated as Rs.4,80,006/-. In addition to the said amount, loss of consortium, estate and funeral expenses to the tune of Rs.9500/- as provided under the Second Schedule were also allowed.

Thus, the award passed by learned tribunal is very much in accordance with law and calls for no intervention. Accordingly, the appeal is dismissed.

4.3.2016 **(SNEH PRASHAR)**
gsv **JUDGE**