IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4143 of 2001(O&M)

Date of decision: 2.8.2017

Ram Kumar and others …..Appellants

VERSUS

M/s R.P.G. Transmission Ltd. and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: None for the appellants.

Mr. Deepak Suri, Advocate for respondent No.3.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Karnal (in short 'the Tribunal') in regard to death of Smt. Premo in a motor vehicular accident that took place on 12.10.1998.

The petition was filed under Section 166 read with Section 140 and 163-A of the Motor Vehicles Act, 1988 (in short 'the Act') but during the course of hearing, counsel representing the claimants before the Tribunal made a statement that the petition be treated under provisions of Section 163-A of the Act, accordingly, compensation has been assessed by taking into consideration the structured formula provided for under Section 163-A of the Act.

The Tribunal assessed income of the deceased at Rs.12,000/- per annum, adopted a multiplier of 15, deducted 1/3rd for personal expenses to compute loss of dependency to the tune of Rs.1,20,000/-. In addition, an amount of Rs.2,000/- for expenses on funeral and Rs.5,000/- for loss of consortium to the husband was awarded making total compensation to Rs.1,27,000/- payable with interest at the rate of 12% per annum.

Counsel representing the insurance company would urge that the deceased was mentally unstable and the said fact has been duly admitted by her husband in his cross examination, therefore, income of the deceased assessed by the Tribunal at Rs.12,000/- per annum cannot be faulted with. Another submission made by counsel is that the Tribunal has awarded interest at the rate of 12% per annum but in case any additional compensation is awarded to the claimants, interest may be awarded at the rate of 9% per annum.

I have heard counsel for the insurance company, perused the records particularly the award passed by the Tribunal.

The Tribunal assessed compensation by treating the claim petition under Section 163-A of the Act. As per the Second Schedule appended to Section 163-A of the Act in case of an non-earning person, his notional income is to be assessed at Rs.15,000/- per annum. There is no provision for making any deduction from notional income as per the Second Schedule. In view of age of deceased being above 35 years but not exceeding 40 years, admissible multiplier would be 16. In this manner, loss of dependency comes to Rs.2,40,000/- (Rs.15,000/- x 16).

Compensation awarded by the Tribunal under conventional heads is affirmed.

In view of the above, total compensation comes to Rs.2,47,000/- and the enhanced compensation is Rs.1,20,000/- (Rs.2,47,000/- - Rs.1,27,000/-). The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of petition till realization, to be shared by the claimants in equal proportion.

The appeal is partly allowed in the aforesaid terms.

AUGUST 2, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no