

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.501 of 2004

Date of Decision.31.10.2017

Smt. Soma Devi and others

.....Appellants

Vs

Shri Jharia Singh and another

.....Respondents

Present: Mr. Ashwani Arora, Advocate
for the appellants.

Mr. R.K. Bashamboo, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appellants-claimants are in appeal seeking enhancement of compensation in a petition filed under Section 163-A of the Motor Vehicles Act whereby the annual income of the deceased has been taken as ₹40,000/- per annum.

Mr. Ashwani Arora, learned counsel appearing on behalf of the appellants submits that the deceased was aged 40 years at the time of accident and was working as Safai Sewak in the Principal Training Institute, Rajpura at a monthly salary of ₹8166/- per month. The amount of compensation awarded is very meager and the claim petition should have been converted into the one filed under Section 166 of the Motor Vehicles Act as the claimants are entitled to enhancement of compensation by taking into consideration the future prospects.

Per contra, Mr. Bashamboo, learned counsel appearing on behalf of the insurance company has relied upon the ratio decidendi culled out by Hon'ble Supreme Court in Deepal Girishbhai Soni Vs. United India

petition filed under Section 163-A of the Motor Vehicles Act cannot be converted into Section 166 at any stage. The compensation has been awarded by taking into consideration the parameters laid down under the Second Schedule, thus, there is no scope for enhancement.

I have heard learned counsel for the parties and appraised the paper book. The Hon'ble Supreme Court in paragraph 57 of the judgment rendered in **Deepal Girishbhai Soni's case** (supra) held as under:-

“57. We, therefore, are of the opinion that the remedy for payment of compensation both under Sections 163-A and 166 being final and independent of each other as statutorily provided, a claimant cannot pursue his remedies thereunder simultaneously. One, thus, must opt/elect to go either for a proceeding under Section 163-A or under Section 166 of the Act, but not under both.”

In view of the ratio decidendi culled out by Hon'ble Supreme Court in **Deepal Girishbhai Soni's case** (supra), I cannot convert the petition filed under Section 163-A of the Motor Vehicles Act into the one filed under Section 166 and remand the matter to the Tribunal for recording evidence with regard to compensation or undertake an exercise of calculation by treating it as a petition filed under Section 166 of the Motor Vehicles Act. All the parameters as enshrined under Section 163-A of the Motor Vehicles Act have been taken into consideration by the Tribunal.

Keeping in view the aforementioned facts and circumstances, the award passed by the Tribunal cannot be faulted with. No ground for interference is made out. The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

October 31, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No