

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4496 of 2006
Date of decision: 22.09.2017

Surjit Kaur and Others

...Appellants

Versus

State of U.P. and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Naveen Madhan, Advocate for
Mr. Pankaj Bali, Advocate for the appellants.

AVNEESH JHINGAN, J.(ORAL)

The present appeal has been filed against the award dated 19.04.2006 passed by the Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal').

On 03.08.2004 Balkar Singh aged 48 years lost his life. Balkar Singh was driving his car bearing registration No. DL-2CW-2746 from Muradabad to Delhi. When he reached near Charan Filling Station, Lodipur, Police Station Pakbara District Muradabad, bus bearing registration No. UP-14-7492 (for short, 'the offending vehicle') struck the car and Balkar Singh died on the spot. FIR No.94 dated 03.08.2004 was registered under Section 304A IPC.

A claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the widow, minor son, minor daughter and a major son of the deceased.

The Tribunal after considering the evidence and witnesses awarded a sum of ₹ 2,25,400/- along with interest at the rate of 7.5% per annum from the date of filing of the claim petition, till its realization.

The facts are not disputed in the present appeal. The present appeal has been filed for enhancement of the compensation. Counsel for the appellant has not disputed the loss of dependency assessed and granted by the Tribunal. Counsel for the appellant has argued that the Tribunal has only awarded consortium of ₹5,000/-. Counsel has further stated that nothing has been awarded for loss of love and affection and it has further argued that funeral expenses awarded of ₹2,000/- are on the lower side.

I have considered the arguments of learned counsel for the appellants. The loss of dependency compensation awarded is not in dispute. So far as the challenge to the amount awarded for loss of consortium and the funeral expenses are concerned same is bereft of merit. Second schedule to the Act governs compensation to be granted under Section 163-A of the Act. As per the second schedule general damages in case of death have been prescribed. This Court in case of **National Insurance Company Limited Vs. Chand Chhabra, 2012 ACJ 326** has held as under:-

“If a petition is filed under Section 163-A of the Motor Vehicle Act, there is no scope for deviation for a manner of how the amounts are specified as payable so long as there is no legislative change in Schedule II. The concepts, which are familiar for loss of love and affection of a child or the value of the domestic work cannot suffer any reduction cannot be imported in the Scheme of Section 163-A”.

From the perusal of the above decision, it is evident that II Schedule has to be followed.

A perusal of the schedule will show that the amount has been fixed for funeral expenses of ₹ 2,000/- and for loss of consortium ₹ 5,000/-.

No head for award of compensation of loss of love and affection has been mentioned in the said schedule. The Supreme Court has time and again commented that the schedule should be amended keeping in view the inflation. Be that as it may, fact remains that Schedule is still on the statute. Therefore, the amount awarded by the Tribunal cannot be faulted. There is no merits in the appeal.

The appeal stands dismissed.

September 22, 2017

Poonam (II)

**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No