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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-16-2009 (O&M)
Date of decision : 01.12.2017

Prem and others

... Appellant(s)

Versus

Shiv Shanker and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sham Lal Bhalla, Advocate
for the appellants.

Mr. Gopal Mittal, Advocate
for respondent No.4/Insurance Company.

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AMIT RAWAL, J. (ORAL)

CM-22880-CII-2014

This is an application under Section 151 of the Code of Civil Procedure for preponing the date of hearing of the above-said appeal.

Since the main appeal is already fixed for today, the application has been rendered infructuous and accordingly, the same is disposed of.

FAO-16-2009

The appellants-claimants being the widow and minor daughters of the deceased, namely, Dev Raj, who unfortunately died in a vehicular accident occurred on 23.11.1998, filed the appeal against the award dated 13.08.2008 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (in short 'the Tribunal'), whereby the compensation to the tune of ₹ 4,42,834/- has been awarded to the claimants. The claim petition has been preferred under

Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act').

Mr. Sham Lal Bhalla, learned counsel appearing on behalf of the appellants-claimants submits that the deceased, at the time of accident, was aged about 50 years and was working as a Writer in Punjab Tourism Department, Chandigarh and earning ₹ 3,300/- per month. The Tribunal has awarded the compensation to the tune of ₹ 4,42,834/- by applying the multiplier of '13' and deduction of 1/3rd towards his personal expenses, which is too meagre. Moreover, no increase was made in the salary towards future prospects and the amounts of ₹ 2,000/- towards funeral expenses, ₹ 5,000/- for loss of consortium and ₹ 2,500/- for loss of estate are also on lower side. No interest has been awarded from the date of filing of the claim petition till passing of the award, thus, there is scope for enhancement.

Mr. Gopal Mittal, learned counsel appearing on behalf of respondent No.4/Insurance Company submits that as per Schedule specified in Section 163-A of the Act, the maximum income for claiming the compensation under Section 163-A of the Act is ₹ 40,000/- per annum and not ₹ 50,000/-, yet the Tribunal has exceeded his jurisdiction and therefore, there is no scope for modification and enhancement.

He further submits that even if the interest has not been granted, excess amount of ₹ 86,667/- has been awarded by taking the income of the deceased as ₹ 50,000/- per annum, whereas by taking the income of ₹ 40,000/-, the compensation should have been ₹ 3,56,167/-, therefore, the excess amount of ₹ 86,667/- should be considered as compensation towards the payment of interest.

I have heard learned counsel for the parties and appraised the paper book and am in agreement with the submissions of Mr. Mittal, for, concededly as per the Schedule specified in Section 163-A of the Act, the maximum income for claiming the compensation under Section 163-A of the Act is ₹ 40,000/- per annum, whereas learned Tribunal undisputably has taken as ₹ 50,000/- per annum. The amount of ₹ 9,500/- towards various conventional heads is correct appreciation of law, therefore, I do not deem it appropriate to increase the amount of compensation as by taking the income of the deceased as ₹ 40,000/- as per Schedule, the compensation should have been ₹ 3,56,667/- instead of ₹ 4,42,834/-. The excess amount of ₹ 86,667/- can be considered towards the payment of interest.

Resultantly, the appeal is dismissed in the aforementioned terms.

(AMIT RAWAL)
JUDGE

01.12.2017
Yogesh Sharma

✓
Whether speaking/reasoned **Yes/ No**
✓
Whether Reportable **Yes/ No**