

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No. 2954 of 2011

DATE OF DECISION : 29.09.2017

Saroj Devi and others

.... APPELLANTS

Versus

Amarjeet Singh and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Sandeep Kotla, Advocate,
for the appellants.

Mr. Suman Jain, Advocate,
for respondent No.3.

Mr. V.K. Garg, Advocate,
for respondent No.5.

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AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 29.11.2010 passed by the Motor Accident Claims Tribunal, Hisar (for short 'the Tribunal').

The present appeal arises out of petition No. 105-MACT of 2008.

On 05.08.2006, Satbir aged 45 years, who was employed as conductor on Tata 407 bearing registration No. HR-61-1193, lost his life when the said vehicle was struck by a Dumper bearing registration No. HR-37B-8786 (for short 'the offending vehicle').

A claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act'), was filed by widow and two minor sons of the deceased. Mother of the deceased was impleaded as perma respondent No.6.

The Tribunal, after considering the evidence and witnesses, awarded a sum of ₹ 3,69,500 along with interest at the rate of 6% per annum, which included ₹ 2,000/- towards funeral expenses; ₹ 2,500/- for loss of estate and ₹ 5,000/- for loss of consortium.

Aggrieved of the said award, the present appeal has been filed by the claimants for enhancement of compensation.

I have heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellants argued that since under Section 163-A of the Act, notional income is taken, therefore, no deduction on account of self expenses should be made. He further argued that the amount awarded under various heads is on lower side.

Learned counsel for respondents No.3 and 5 argued that under Section 163-A of the Act, compensation has to be calculated as per the second schedule to the Act and the Tribunal has calculated the same as per the schedule. They argued that no interference is called for in the award.

I do not find any substance in the argument of learned counsel for the appellants. The appeal is bereft of merit.

Compensation under Section 163-A of the Act is an alternative

mechanism provided to claim compensation. The claimants do not have to prove rash and negligent driving. But the compensation is restricted as per the Second Schedule. Note 1 to the Schedule specifically provides that in case of fatal accident, the annual income shall be reduced by 1/3 in consideration of the expenses which the victim should have incurred towards maintaining himself had he been alive. The amounts to be awarded under various heads are also mentioned in the schedule itself and the Tribunal has awarded these amounts accordingly.

In view of the clear provisions, there is no scope to accept the contention of learned counsel for the appellants and deduction has been rightly made by the Tribunal, in accordance with the provisions of the Act and the Second Schedule attached thereto.

Appeal is, accordingly, dismissed.

September 29, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No