

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

FAO No. 5429 of 2011
DATE OF DECISION : 07.11.2017

Smt. Prem Wati

.... APPELLANT

Versus

Pardeep and another

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Gulraj Khan, Advocate, for
Mr. Amit Kumar Goel, Advocate,
for the appellant.

Mr. Rajneesh Malhotra, Advocate,
for respondent No.2 – Insurance Company.

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AVNEESH JHINGAN, J. (Oral)

The only issue raised in the present appeal is that under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act'), the Motor Accident Claims Tribunal, Sonipat (for short, 'the Tribunal') has wrongly calculated the loss of dependancy, when the deceased was 56 years of age.

The facts have not been disputed by the parties.

The facts necessary for adjudication of the present appeal are that Ram Phal, aged 56 years, lost his life in an accident which occurred on 05.05.2010. He was driving a car bearing registration No. HR-10H-3821. The said car struck against a tractor. DDR was lodged at Police Station Murthal.

A claim petition under Section 163-A of the Motor Vehicles Act

1988 (for short, 'the Act') was filed by the wife of the deceased.

The Tribunal, after considering the evidence and material produced before it, awarded a sum of ₹ 1,53,500/- along with interest at the rate of 7.5% per annum. The awarded amount included a sum of ₹ 1,44,000/- for loss of dependency and the remaining amount of ₹ 9,500/- was awarded under the conventional heads.

Aggrieved of the said award, the claimant filed this appeal for enhancement of compensation for loss of dependency.

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

Learned counsel for the appellant argued that the appellant was entitled to a higher amount of compensation for loss of dependency, whereas the Tribunal has wrongly calculated the same as ₹ 1,44,000/-.

Learned counsel for respondent No.2 – Insurance Company could not raise any serious objection to re-calculation of the compensation for loss of dependency as per Second Schedule attached to the Act.

The annual income of deceased Ram Phal was assessed as ₹ 36,000/-. The deceased was 56 years of age at the time of the accident. Both these facts are not in dispute. Hence, the loss of dependency is being re-calculated as under :-

Annual income	₹ 36,000/-
Less 1/3 rd for self expenses	₹ 12,000/-
Annual dependency	₹ 24,000/-
Compensation for loss of dependency by applying multiplier of '8'	24,000 x 8 = 1,92,000/-

In view of the above, the award dated 10.06.2011 is modified to the extent that the total amount of compensation of ₹ 1,53,500/- awarded by the Tribunal is enhanced to ₹ 2,01,500/-.

The appellant shall be entitled to the enhanced amount of compensation along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

November 07, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No