In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 2465 of 2013 (O&M)
Date of Decision: 13.11.2017

ICICI Lombard General Insurance Company Ltd. ......Appellant

Versus

Bugli and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. A.S.Sidhu, Advocate
for the appellant.

None for respondents No. 1 to 6.

Mr. Naresh Gopal, Advocate
for respondent No. 7.

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ANITA CHAUDHRY, J

The insurance company has filed this appeal aggrieved by the compensation allowed by the Motor Accident Claims Tribunal, Narnaul vide award dated 16.2.2013.

Admittedly, the claim petition had been filed under Section 163-A of the Motor Vehicles Act. The Tribunal took the age of the deceased as 50 years as was noted in the PMR and applied the multiplier of 13 while referring to ***Sarla Verma and others versus Delhi Transport Corporation and another 2009(3) RCR (Civil) 77 (SC)*** and had made a deduction of 1/4th towards personal expenses and added Rs. 10,000/- for loss of consortium and Rs. 10,000/- for last rites.

On the last date, counsel appearing for the insurance company had stated that only a short issue was involved. There was a request on behalf of counsel respondents No. 1 to 6. The case was adjourned and it was made clear that it would be the last opportunity. No one has appeared for them today.

The submission on behalf of the appellant is short that when the petition is filed under Section 163-A of the Motor Vehicles Act, then IInd Schedule has to be followed and the multiplier should be 11 and the deduction should have been $1/3^{rd}$ and the amount allowed on the miscellaneous heads should be as mentioned therein.

No submissions were made by the counsel representing respondent No 7. It was stated that it was the insurance company who has to pay the amount.

The petition was filed under Section 163-A of the Motor Vehicles Act. It is the IInd Schedule appended to the Act which has to be followed and therefore, calculations shall have to be made again. Taking the income to be Rs. 3300/- per month and making a deduction of $1/3^{rd}$, the amount available with the family would be Rs. 2200/- and the compensation would be Rs. 2200/- x 12 x 11 = 2,90,400. Adding a sum of Rs. 5,000/- for loss of consortium, Rs. 2500/- for loss of estate and Rs. 2500/- for funeral expenses, the total compensation payable would be Rs. 3,00,400/-. This is the amount which was payable to the claimants. I would not make any other change with respect to interest. If the amount has been already paid then the insurance company is entitled to recover the same by filing an execution petition.

The award is modified. The appeal is allowed.

(ANITA CHAUDHRY)
JUDGE

November 13, 2017
Gurpreet

Whether speaking/reasoned	:	**Yes**
Whether reportable	:	**No**