

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

FAO No. 1108 of 2014(O&M)

Date of decision: 24.7.2017

Hans Raj and others

....Appellants

VERSUS

Takhat Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sanjay Mittal, Advocate for the appellants.

Mr. A.S. Sidhu, Advocate for respondent No.2.

REKHA MITTAL, J.(Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Rewari (in short 'the Tribunal') in respect of death of Sheela Devi in a motor vehicular accident that took place on 10.04.2011.

The Tribunal assessed income of the deceased at Rs.15,000/- per annum, adopted a multiplier of 15 to compute loss of dependency to the tune of Rs.2,25,000/-. In addition, claimants have been awarded an amount of Rs.3,000/- for funeral expenses making total compensation to Rs.2,28,000/-.

Counsel for the appellants has submitted that deceased left behind two minor children but the Tribunal has not awarded any compensation for loss of love and affection. No compensation has been awarded for loss of consortium to Sh. Hans Raj, husband of the deceased.

Counsel representing the insurance company has supported the award with the submission that the Tribunal has rightly assessed compensation by taking recourse to structured formula envisaged in the Second Schedule appended to Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act') as the petition was filed under Section 163-A thereof.

I have heard counsel for the parties, perused the paper-book particularly the award passed by the Tribunal.

Indisputably, the petition was filed under Section 163-A of the Act, therefore, compensation is required to be determined as per the structured formula provided for in the Second Schedule under Section 163-A. There is no provision in the structured formula for payment of compensation towards loss of love and affection. The contention of the appellants to award compensation for loss of love and affection, therefore, is not tenable and accordingly rejected.

The Tribunal has not awarded any compensation for loss of consortium to Sh. Hans Raj, husband of the deceased. Hans Raj is awarded an amount of Rs.5,000/- towards loss of consortium. An amount of Rs.3,000/- towards expenses on funeral awarded by the Tribunal is affirmed.

Perusal of the award would indicate that the deceased was 38 years old at the time of death. As per the structured formula, admissible multiplier is 16 between the age bracket of above 35 years but not exceeding 40 years. The Tribunal has wrongly applied the multiplier of 15 in place of 16. By allowing multiplier of 16, loss of dependency comes to Rs.2,40,000/- [Rs.15,000/- x 16].

In view of the above, total compensation comes to Rs.2,48,000/- [Rs.2,40,000/- + Rs.3,000/- + Rs.5,000/-] and the enhanced compensation is Rs.20,000/--(Rs.2,48,000/- - Rs.2,28,000/-). The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of petition till realization, payable to Karambir, one of the minor sons of the deceased.

The appeal is partly allowed in the aforesaid terms.

JULY 24, 2017

‘D. Gulati’

Whether speaking/reasoned

Whether reportable

:

:

yes/no

yes/no

(REKHA MITTAL)

JUDGE