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

**FAO No.4269 of 2014(O&M)**

**Date of decision: 30.10.2017**

Roshni and another …..Appellants

VERSUS

Tejvir Singh @ Tejbir Singh and another .....Respondents

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**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Pardeep Kumar, Advocate for
Mr. Vivek Suri, Advocate for the appellants.

Mr. Punit Jain, Advocate for respondent No.2.

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**REKHA MITTAL, J. (Oral)**

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Patiala (in short 'the Tribunal') in regard to death of Sahabdeen in a motor vehicular accident that took place on 29.01.2014.

The Tribunal assessed income of the deceased at Rs.3300/- per month, deducted 50% for personal expenses and applied a multiplier of 17 to compute loss of dependency to the tune of Rs.3,36,600/-. In addition, following compensation was awarded under conventional heads:-

| | |
|---|---|
| Loss of love and affection | Rs.1,00,000/- |
| Funeral Expenses | Rs.10,000/- |
| Transportation | Rs.10,000/- |

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The total compensation awarded by the Tribunal is Rs.4,56,600/-. Counsel for the appellants has submitted that compensation awarded by the Tribunal is on lower side and needs enhancement.

Counsel representing the insurance company, on the contrary, has submitted that the application for compensation was filed under Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act'), therefore, compensation awarded under conventional heads is beyond the prescribed limits envisaged in Second Schedule appended to Section 163-A of the Act.

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

Indisputably, the application for compensation was filed under Section 163-A of the Act wherein compensation is to be assessed on the basis of structured formula provided for in the Second Schedule appended to Section 163-A of the Act. There is no challenge to findings of the Tribunal with regard to income of the deceased determined at Rs.3,300/- per month. The deceased was unmarried son of the claimants. As per the Second Schedule, admissible deduction for personal expenses would be 1/3$^{rd}$ in place of 50%.

The Tribunal has applied multiplier of 17 for computing loss of dependency, however, appropriate multiplier for age above 25 years but not exceeding 30 years is 18, as per the Second Schedule. In the post-mortem report of the deceased his age is recorded as 27 years. Accordingly, the claimants shall be entitled to compensation by applying a multiplier of 18. In this view of the matter, loss of dependency comes to Rs.4,75,200/- (Rs.2200/- x 12 x 18).

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Compensation awarded by the Tribunal under conventional heads is more than what is provided for in the Second Schedule. The claimants shall be entitled to following compensation for general damages:-

| | |
|---|---|
| Funeral expenses | Rs.2,000/- |
| Loss of estate | Rs.2,500/- |

Compensation of Rs.1,00,000/- for loss of love and affection and Rs.10,000/- for transportation awarded by the Tribunal is ordered to be set aside.

In view of the above, total compensation comes to Rs.4,79,700/- and the enhanced compensation is Rs.23,100/-(Rs.4,79,700/- - Rs.4,56,600/-). The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of petition till realization, payable to mother of the deceased.

The appeal is disposed of in the aforesaid terms.

**OCTOBER 30, 2017** **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no

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