

FAO No.5071 of 2014 (O&M)

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

Sr. No.213

**FAO No.5071 of 2014 (O&M)
DECIDED ON: March 08, 2017**

MOHINDER KAUR

..APPELLANT

VERSUS

RAVI KUMAR AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Bahadur Singh, Advocate,
for the appellant.

None for respondents No.1 & 2.

Mr. Rahul Pathania, Advocate,
for respondent No.3-Insurance Company.

JASPAL SINGH, J.

CM No.14405-CII of 2014

In view of the explanation furnished by the applicant/appellant in the application, which is duly supported by an affidavit of Ms. Mohinder Kaur widow of Sh. Joginder Singh, the delay of 30 days in filing the present appeal is condoned.

Applicants stands disposed of accordingly.

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Smt. Mohinder Kaur-claimant has filed the instant appeal, feeling dissatisfied the Award dated October 24, 2013 passed by the learned Motor Accident Claims Tribunal, Ambala (for short 'Tribunal') whereby while disposing of a claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for short 'Act') bearing MACP No.102 of 2012 titled as "*Mohinder Kaur vs. Ravi Kumar and others*". Learned Tribunal has only awarded compensation to the tune of ₹3,41,000/- on account of death of Surinder Singh in a vehicular accident occurred on April 06, 2012 involving truck bearing registration No.HR-61-4130 driven by respondent No.1-Ravi Kumar.

2. Learned counsel for the appellant has argued with vehemence that compensation awarded by the learned Tribunal vide Award dated October 24, 2013 is unjust and inadequate on account of death of Surinder Singh, who was aged about 31 years at the time of accident, only a meager amount of ₹3,41,000/- has been awarded. In fact, the learned Tribunal has failed to award a fair and reasonable compensation. He has only applied the multiplier of 17 whereas considering the age of the deceased to be 31 years at the time of accident, multiplier of 18 should have been applied. Similarly, the learned Tribunal has gravely erred in awarding very less amount regarding transport and funeral expenses i.e. ₹2,000/-, whereas, the claimant has specifically stated through her affidavit that she has spent a ₹30,000/- on transport and funeral expenses of Surinder Singh. Not only this, only a meager amount of ₹2500/- has been awarded by learned

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Tribunal on account of loss of estate.

3. Learned counsel for the appellant has further submitted that learned Tribunal has also failed to award pecuniary damages. Learned Tribunal has referred to the Hon'ble Apex Court rendered in case "*R.K. Malik vs. Kiran Pal, 2009(3) R.C.R. (Civil) 403*".

4. On the other hand, learned counsel for respondent No.3-Insurance Company has controverted the submission made by learned counsel for the appellant and has supported the impugned Award dated October 24, 2013. It has been submitted by him that the claim petition was preferred under Section 163-A of the Act for seeking compensation on account of death of Surinder Singh by the appellant-claimant, the fair, reasonable and adequate compensation has already been awarded by learned Tribunal on the basis of Scheduled II and relevant multiplier under the Act. Similarly, a fixed amount as provided under Scheduled II has been awarded on account of loss of estate and funeral expenses to be incurred on last rights. The appellant/claimant cannot ask for more compensation which are available under Section 166 of the Act while filing a claim petition under Section 163-A of the Act. Learned counsel for respondent No.3-Insurance Company accordingly prayed for dismissal of the appeal.

5. After bestowing due consideration to the aforesaid submissions made by learned counsel for the parties and scanning of the impugned Award dated October 24, 2013, this court is of the considered view that fair and reasonable compensation has already been awarded by the learned Tribunal to the appellant/claimant strictly in accordance with Scheduled II appended with the Act. The deceased-Surinder Singh was more than 31

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years at the time of accident and as per the Schedule II, the learned Tribunal has applied the multiplier of 17 which is absolutely in consonance with the age as well as multiplier provided in Schedule II. Similarly, a sum of ₹2500/- has been awarded on account of loss of estate and a sum of ₹2000/- on account of funeral expenses, which is also strictly in accordance with Schedule II. When a claim petition has been preferred under Section 163-A of the Act, the learned Tribunal is bound to apply the structured formula provided in Schedule II and cannot go beyond it. As per the Schedule II, the learned Tribunal has already awarded the compensation, which can be termed to be fair, reasonable, just and adequate. Thus, this court does not find any illegality or perversity in the impugned Award dated October 24, 2013. The facts and circumstances elucidated in *R.K. Malik vs. Kiran Pal* case are entirely different and distinguishable. The said judgment is not applicable in the present case.

6. In the light of what has been discussed above, this court does not find any merit in the instant appeal. Accordingly, it stands dismissed.

7. No order as to costs.

March 08, 2017

Ankur

**(JASPAL SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No