

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

244

FAO No.4666 of 2015 (O&M)

Decided on : 08.09.2017

Subhash and others

... Appellants

Versus

Jaiveer Singh and another

.. Respondents

CORAM : HON'BLE MRS.JUSTICE REKHA MITTAL

Present : Mr.V.K.Sheoran, Advocate
for the appellants.

Mr.Naveen Pratap Singh, Advocate
for respondent No.1.

Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Chanderkala in a motor vehicular accident that took place on 27.05.2013.

The Tribunal, by relying upon the criteria provided in 2nd Schedule appended to Section 163-A of the Motor Vehicles Act, 1988 has assessed annual dependency at Rs.8000/- by taking into consideration 1/3rd income of husband of the deceased and further deducted 1/3rd qua standard deduction. After applying multiplier of 15, loss of dependency has been assessed at Rs.1,20,000/-. In addition, an amount of Rs.25,000/- towards funeral and last rites expenses, Rs.10,000/- for loss of consortium and Rs.5000/- for loss of estate has been awarded making total compensation to Rs.1,60,000/-.

Counsel for the appellants has submitted that as the application for compensation was filed under Section 166 of the Motor

Vehicles Act, 1988 (in short the 'Act'), the Tribunal has committed a gross error by relying upon 2nd Schedule which is meant for allowing compensation under Section 163-A of the Act. Another submission made by counsel is that the deceased left behind family consisting of her husband, three daughters and a minor son and loss of dependency is liable to be assessed by determining value of services of a housewife. Further submission made by counsel is that compensation awarded under conventional heads needs enhancement.

Counsel representing the Insurance company has supported the award with a submission that adequate compensation has been assessed by the tribunal.

The tribunal has assessed loss of dependency by invoking 2nd Schedule appended to Section 163-A of the Act but failed to consider that the application was filed under Section 166 of the Act and there are catena of judgments on the issue as to how services of a house wife are to be valued for the purpose of assessing just compensation under Section 166 of the Act. Under the circumstances, findings recorded by the Tribunal assessing loss of dependency are the result of non-application of mind.

As the deceased left behind family of five members including three daughters and a minor son coupled with social status of family of the deceased, value of services of the deceased is assessed at Rs.5000/- per month. No deduction for personal expenses is permissible in the light of Division Bench's judgment of this Court in case ***Paramjit Singh and another v. Dilbagh Singh @ Bagga and others*** 2014 (4) (Civil) 895. In

view of the above, loss of dependency comes to (Rs.5000/- X 12 X 15)
Rs.9,00,000/-.

Under conventional heads, the claimants shall be entitled to
the following compensation:-

Expenses on funeral and last rites – Rs.25,000/-.

Loss of consortium to the husband – Rs.1 lac.

Loss of love and affection to the children- Rs.2 lacs.

Compensation of Rs.5000/- for loss of estate awarded by the
tribunal is ordered to be set aside. Total compensation comes to
Rs.12,25,000/- and additional amount of Rs.10,65,000/- (Rs.12,25,000-
1,60,000) payable with interest @ 7.5% per annum from the date of
petition till realization is to be shared by children of the deceased in the
ratio 10:20:20:50 respectively. The amount of compensation shall be
deposited in the respective names of children in fixed deposit receipt for a
period of three years or till the minor child attains the age of majority
whichever is later.

Appeal is party allowed in the aforesaid terms.

[Rekha Mittal]
Judge

08.09.2017

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Whether speaking/reasoned

: Yes/No

Whether Reportable

: Yes/No