

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 2072 of 2017(O&M)

Date of decision November 21, 2017

Refique and another

..... Appellants

Versus

Rehmuddin and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashish Gupta, Advocate
for the appellants.

Ms. Kavitan Sood, Advocate
for the respondents.

AVNEESH JHINGAN, J (ORAL)

The present appeal involves the issue that the Motor Accident Claims Tribunal, Gurgaon (for short 'The Tribunal') has not calculated the compensation under Section 163-A of the Motor Vehicles Act, 1988 (for short 'The Act') as per Second Schedule to the Act.

The facts have not been disputed by either of the parties.

The bare facts necessary for adjudication of present appeal are that on 26.9.2009 Iqbal aged 24 years was driving a motor cycle bearing registration No. HR-51Y-7116. There was a motor vehicular accident in which he lost his life.

The claim petition under Section 163-A of the Act was filed and the Tribunal awarded a sum of Rs. 3,65,600/- along with interest at the rate of 7.5% per annum.

I have heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellants has argued that the Tribunal accepted the monthly income of the deceased as 3,200/- but thereafter erred in thereafter deducting ½ for self expenses.

Learned counsel for the Insurance Company, on the other hand has argued that deduction of ½ will not matter as a wrong multiplier of 18 has been applied whereas multiplier of 17 should have been applied. She further argued that an amount of Rs. 20,000/- under the conventional heads has been awarded which is not as per the schedule.

The compensation should have been awarded as per the Second Schedule of the Act. Second Schedule provides that multiplier of 17 has to be applied where the deceased is aged between 20-25 years. Deduction of 1/3rd has to be made for self expenses and Schedule provides Rs.2,000/- compensation for funeral expenses and Rs. 2500/- for loss of estate.

Keeping in view the Second Schedule of the Act, the compensation is recalculated as under:-

<i>S.No.</i>	<i>Heads of claim</i>	<i>Amount</i>
1	Annual Income	38,400/-
2	1/3 rd deduction for self expenses	12,800/-
3	Multiplier applied	17
4	Funeral expenses	2,000/-
5	Loss of estate	2,500/-
6	Total	4,39,700/-

The award dated 12.10.2016 is modified to the extent that the amount awarded by the Tribunal of Rs. 3,65,600/- is enhanced to Rs. 4,39,700/-.

of compensation along with interest as awarded by the Tribunal from the date of filing of the claim petition till the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)

JUDGE

November 21, 2017

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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No