

In the High Court of Punjab and Haryana at Chandigarh

FAO- 1868 of 2009(O&M)
Date of Decision: 13.12.2018

Angrej Kaur and another

---Appellants

versus

Karnail Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Shalley Mahajan, Advocate
for the appellants

Mr. R.C.Gupta, Advocate,
for respondents No. 3 and 5

Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation on account of death of Gursewak Singh @ Sewak Singh in a motor vehicular accident that took place on 30.4.2008.

The Motor Accidents Claims Tribunal (Fast Track Court) Bathinda (in short “the Tribunal”) has awarded compensation of Rs.2,69,000/- in an application filed under Section 163-A of the Motor Vehicles Act, 1988 (in short “the Act”), detailed hereunder:-

Monthly income of the deceased	Rs. 3000/-
Deduction for personal expenses	1/3 rd
Multiplier	11
Loss of dependency	Rs. 2,64,000/-
Funeral expenses	Rs. 2000/-
Loss to estate	Rs. 3000/-

The sole submission made by counsel for the appellant is that multiplier applied by the Tribunal is not correct as deceased was 19 years old at the time of occurrence.

Counsel for the insurance company would apprise the court that the appellants were directed to file an affidavit that they have not received any compensation under the Employees Compensation Act, 1923 but they have failed to do so.

Indisputably, the claim for compensation has been raised under Section 163-A of the Act wherein compensation is to be assessed on the basis of structured formula laid down in 2nd Schedule appended thereto. The Tribunal has rightly assessed income of the deceased and applied 1/3rd cut for personal expenses of the deceased. However, in view of age of the deceased, appropriate multiplier is 16, available for the age group above 15 years but not exceeding 20 years. In this manner, loss of dependency is calculated at Rs. 3,84,000/-[3000 12x16=5,76,000 -1,92,000(1/3rd)].

Under conventional heads, compensation allowed by the “Tribunal is correct and affirmed.

Total compensation is Rs. 3,89,000/- and the additional amount is Rs. -1,20,000/- (3,89,000-2,69,000), payable with interest @ 7.5% per annum from the date of petition till realization, to mother of the deceased.

The Tribunal has allowed interest @ 9% if the amount is not paid within two months and in case the same is paid within two months, interest would be 6% per annum. Taking into consideration the rate of interest allowed by this Court on additional amount, interest at the rate of 7.5% would be paid on the amount assessed by the Tribunal irrespective of whether the payment is made within two months or otherwise.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms. The insurance company is left at liberty to file an application before the court if it is found that claimants got compensation under Employees' compensation Act as well.

(Rekha Mittal)
Judge

13.12.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No