IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 12.03.2018

FAO No.1293 of 2011 (O&M)

Santosh ... Appellant

Versus

Rakesh Kumar and others ... Respondents

FAO No.2086 of 2011 (O&M)

New India Assurance Co. Ltd. ... Appellant

Versus

Angrejo Devi and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Deepak Suri, Advocate for the insurance company.

Ms. Harpreet Kaur, Advocate for
Mr. Vivek Goyal, Advocate
for the appellant in FAO No.1293 of 2011.

****

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.1293 and 2086 of 2011 as these have emerged out of the same award dated 09.09.2010 passed by the Motor Accidents Claims Tribunal, Kaithal whereby compensation has been awarded on account of death of Satish Kumar and Anil Kumar out of the use of vehicle bearing No.HR-07-L-4513 on 11.05.2009.

FAO No.1293 of 2011 has been filed by Santosh, widow of Satish Kumar seeking enhancement of compensation awarded by the Tribunal whereas FAO No.2086 of 2011 has been filed by New India Assurance Co. Ltd. to assail the award qua death of Anil Kumar.

FAO No.1293 of 2011

Counsel for the appellant would contend that compensation awarded by the Tribunal is on lower side and needs enhancement.

Counsel representing the insurance company, on the contrary, would urge that as the application for compensation was filed under Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act') wherein compensation is required to be assessed on the basis of structured formula provided in Second Schedule appended to Section 163-A of the Act, there is no scope for enhancement of compensation.

I have gone through findings of the Tribunal with regard to assessment of compensation on account of death of Satish Kumar.

The Tribunal has assessed income of the deceased at Rs.3000/- per month by treating him as a casual labour. Taking a clue from the notification issued by the State of Haryana fixing minimum wages of different categories of employees prevalent at the relevant time, income of the deceased is assessed at Rs.3300/- per month. The Tribunal has rightly applied multiplier of 17 and deduction of 1/3rd for personal expenses of the deceased. In this manner, loss of dependency comes to Rs.4,48,800/- (Rs.3300 x 12 x 17) – (1/3rd deduction for personal expenses).

Compensation awarded by the Tribunal under conventional heads is ordered to be affirmed. In this manner, total compensation is Rs.4,60,800/- and the additional amount is Rs.40,800/- (4,60,800 – 4,20,000), payable with interest @ 7.5% per annum from the date of petition till realization to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

FAO No.2086 of 2011

Counsel for the insurance company would fairly inform that appeal has been preferred to assail only quantum of compensation assessed by the Tribunal in regard to death of Anil Kumar. The sole submission made by counsel is that the Tribunal has wrongly applied multiplier of 17 but the multiplier is required to be applied on the basis of age of parents of the deceased.

Contention raised by counsel for the insurance company is devoid of merit and liable to be rejected when the case is examined in the light of structured formula provided in Second Schedule appended to Section 163-A of the Act.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed. As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

12.03.2018 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No