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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2182 of 2014 (O&M)
Date of Decision: 18.07.2018

Kulwant Kaur ......Appellant

Vs

Hardeep Singh and others ......Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Ramneek Vasudeva, Advocate
for the appellant.

Mr. H.S. Tuli, Advocate for
Mr. S.S. Rangi, Advocate
for respondent No.1.

Ms. Vandana Malhotra, Advocate for
for respondent No.2.

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RAJ MOHAN SINGH, J. (Oral)

[1]. This appeal has been preferred by the claimant/appellant under Section 163-A of the Motor Vehicles Act (hereinafter to be referred as 'the Act') on account of death of Gurbachan Singh in an accident which took place on 02.08.2011.

[2]. The claim petition petition was dismissed by the Motor Accident Claims Tribunal, S.A.S. Nagar (Mohali) (for short 'the Tribunal') on the basis of findings recorded in para No.13 of the

award.

[3]. Precisely the income of the deceased was held to be beyond Rs.40,000/- per annum and the claim petition was dismissed as the same was out of the purview of Section 163-A of the Act.

[4]. Learned counsel for the appellant relied upon para no.6 of the claim petition wherein the monthly income of the deceased was shown to be Rs.3300/- per month. Subsequent part of the pleadings has been deleted/cut under the initials of counsel. With these cuttings on record, it cannot be pointed out as to whether the deceased was earning some more income on account of his agricultural pursuits or his status as that of a pensioner. Deceased was employed in the Verka.

[5]. I have considered the submissions made by learned counsel for the parties.

[6]. The factum of additional income beyond Rs.3300/- per month could not be corroborated even in the affidavit of claimant i.e. Ex.PW-1/A wherein also an amount of Rs.3300/- was shown to be monthly income of the deceased. Though the aforesaid figure was also corrected under the initials of the counsel/executant. There was no other evidence on record to suggest that the deceased was having income more than

Rs.3300/- per month.

[7]. In my considered opinion, the observations made to the contrary by the Tribunal were on account of misreading of evidence. Accordingly, the findings recorded on the said aspect are set aside. Since the Tribunal has not assessed the compensation payable to the claimant/appellant, therefore, I proceeded to assess the income and other parameters as the remand of the case would occasion in further delay in disposal of the case.

[8]. The annual income of the deceased is found to be Rs.39,600/- (3300 x 12) and the same is well within the parameters/requirements of Section 163-A of the Act. The deceased was 65 years of age at the time of accident, therefore, multiplier of 5 is to be applied as per the Second Schedule of the Motor Vehicles Act. In this manner, the annual dependency would come to be Rs.1,98,000/- (39,600 x 5).

[9]. The aforesaid amount has to be divided by 2/3rd towards self expenses of the deceased. The resultant amount would come out to be Rs.1,32,000/-. An amount of Rs.9500/- is to be added to the aforesaid amount towards conventional heads. In this way, total amount of compensation payable to the claimant comes out to be Rs.1,41,500/- (1,32,000 + 9500). The

same shall carry interest @ 7.5% per annum from the date of filing of the claim petition till final realization of the amount.

[10]. For the reasons recorded hereinabove, this appeal is disposed of.

July 18, 2018 **(RAJ MOHAN SINGH)**

Atik **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No