IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.3152 of 2015 (O&M)
Date of Decision: 31.10.2018

1.

Veena Rani

.......Appellant

Versus

Vijay Kumar Midha & others

........Respondents

2.

FAO No.5814 of 2014 (O&M)

National Insurance Company Ltd.

.......Appellant

Versus

Veena Rani and others

........Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr. Vinod K.Kanwal Advocate for
Mr. Ashit Mailk, Advocate
for appellants (in FAO No.3152 of 2015)
and for respondents No.1 and 2 (in FAO No.5814 of 2014)

Mr. Neeraj Khanna, Advocate for
Mr.Ravinder Arora, Advocate
for the Insurance Company.

<u>AVNEESH JHINGAN J.(ORAL)</u>

This order shall dispose of two cross appeals bearing Nos. FAO No.3152 of 2015 and FAO No.5814 of 2014.

The claimants and the insurer of Maruti Wagon-R Car bearing registration No.DL-0CD-8801 (for short 'the car') are in crossappeal against the award dated 10.03.2014 passed by Motor Accident Claims Tribunal, Kurukshetra (for short 'the Tribunal') in MACT Case No.397 of 2013.

The brief facts necessary for adjudication of the present appeals are that on 06.08.2012, Gaurav Kumar alongwith Anil Kumar, Sharesht @ Surinder, Avtar Singh and Baby Ayush were going from Village Kaul to Radaur, District Yamuna Nagar to attend the marriage of Sanjeev Kumar. They were travelling in the car. On 07.08.2012, when they were returning back, the car which was being driven by Manoj Kumar, struck against a stationary truck from behind. The truck was parked in the middle of the road without any indicator. As a result of the accident, Sharesht @ Surinder Kumar received fatal injuries and lost his life.

A claim petitions under Section 163-A of Motor Vehicles Act, 1988 (for short 'the Act'), was filed. The Tribunal after considering the facts and circumstances of the case, awarded a sum of ₹3,70,600/- alongwith interest @ 7.5% per annum. The amount awarded included a sum of ₹25,000/- for last rites and transportation etc.

Learned counsel for the insurer of the car contended that the Tribunal erred in granting ₹25,000/- under the conventional heads and wrongly applied multiplier 18 instead of 17 and the compensation should have been awarded strictly as per the IInd Schedule attached to Section 163-A of the Act.

Learned counsel for the claimants was not able to dispute the contention raised by the learned counsel for the insurer of the car regarding conventional heads but argued that the income of the deceased assessed as ₹3200/- per month is on the lower side. He, further, argued that deduction for self-expenses has wrongly been made as ½ instead of 1/3rd. He contended that the interest awarded @ 7.5% was also on lower side.

There is no dispute that the deceased was 22 years old at the time of the accident and he was working as a salesman. In such circumstances, his monthly income is taken to be ₹3300/-. As per the Second Schedule of the Act, 1/3rd deduction for self-expenses is to be made and a multiplier of 17 is to be applied.

The contention of the learned counsel for the insurer of the car deserves acceptance that the conventional heads are to be awarded as per the Second Schedule of the Act, i.e., ₹2000/- for funeral expenses and ₹2500/- for loss of estate.

In view of the above discussion, the compensation is recalculated as under:-

	Head	**Compensation Awarded**
(i)	Monthly Income	₹3300/-
(ii)	Personal expenses	₹1100
(iii)	Applying Multiplier of 17	2200x12x17
(iv)	Loss of dependency	₹4,48,800/-
(v)	Funeral expenses	₹2000
(vi)	Loss of estate	₹2500
(vii)	Total compensation awarded	₹4,53,300/-

The award dated 10.03.2014 is modified to the extent that the amount awarded of Rs.3,70,600/- is enhanced to Rs.4,53,300/-.

There was a stay granted by this Court that only 50% of the amount awarded shall be disbursed to the claimants. It is directed that the amount due after modification of the award, be disbursed in totality.

The contention of the learned counsel for the claimants regarding interest rate deserves acceptance. Keeping in view the facts and circumstances of the case, the 7.5% interest rate awarded by the Tribunal is on lower side. As just and equitable compensation is to be awarded by the Courts under the welfare legislation, therefore, the interest rate is enhanced to 9% per annum. The claimants shall be entitled to interest @9% on entire amount awarded. The interest shall be paid from the date of filing of claim petition till realization of the amount.

The appeals are disposed of in the manner indicated above.

(AVNEESH JHINGAN)
JUDGE

October 31, 2018
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No