

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

FAO No.3154 of 2015 (O&M)
Date of Decision: 31.10.2018

1.

Karamjeet Kaur and others

.....Appellants

Versus

Vijay Kumar Midha & others

.....Respondents

2.

FAO No.5817 of 2014 (O&M)

National Insurance Company Ltd.

.....Appellant

Versus

Smt. Karamjeet Kaur 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.3154 of 2015)
and for respondents No.1 to 3 (in FAO No.5817 of 2014)

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

AVNEESH JHINGAN J.(ORAL)

This order shall dispose of two cross appeals bearing nos.
FAO No. 3154 of 2015 and FAO No. 5817 of 2014.

2. The claimants and the insurer of Maruti Wagon-R Car
bearing registration No.DL-0CD-8801(for short 'the Car') are in appeal
against the award dated 10.03.2014 passed by Motor Accident Claims
Tribunal, Kurukshetra (for short 'the Tribunal') in MACP No. 455 of

2013.

3. 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, Amit Kumar received fatal injuries and lost his life.

4. The claim petitions under Section 163-A of Motor Vehicle Act, 1988 (for short 'the Act'), was filed. The Tribunal after considering the facts, awarded a sum of Rs. 6,85,950/- alongwith interest @ 7.5% per annum. The amount awarded included Rs.1,00,000/- for loss of consortium, Rs. 1,00,000/-for loss of care and guardian and Rs. 25,000/- for funeral expenses.

5. Learned counsel for the insurer of the car contended that the Tribunal erred in granting Rs. 2,25,000/- under the Conventional Heads and the compensation should have been awarded as per the IIInd Schedule attached to 163-A of the Act. No other issue was raised.

6. 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 Rs. 3200/- per month is on the lower side. It is contended that the interest awarded @ 7.5% was also on lower side.

7. There is no dispute to the fact that the deceased was 25 years old at the time of the accident and he was working as a photographer. In

such circumstances, the monthly income is taken to be Rs.3,300/-. As per the second schedule of the Act, 1/3rd deduction for self expenses is to be made and a multiplier of 18 is to be applied.

8. 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. Rs.2000/- for funeral expenses, Rs.5000/- for loss of consortium and Rs.2500/- for loss of estate.

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

	Head	Compensation Awarded
(i)	Monthly Income	Rs. 3300/-
(ii)	Personal expenses	Rs. 1100
(iii)	Applying Multiplier of 18	2200x12x18
(iv)	Loss of dependency	Rs. 4,75,200/-
(v)	Funeral expenses	Rs. 2000/-
(vi)	Loss of estate	Rs. 2500/-
(vii)	Loss of Consortium to widow	Rs. 5000/-
(viii)	Total compensation awarded	Rs. 4,84,700/-

10. The award dated 10.03.2014 is modified to the extent that amount awarded of Rs.6,85,950/- is reduced to Rs.4,84,700/-. There was a stay granted by this Court that only 50% of the amount awarded shall be disbured to the claimants. It is directed that the amount due after modification of the award, be disbursed in totality.

11. 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 on

entire amount awarded by this Court. The interest shall be paid from the date of filing of claim petition till realization of the amount.

12. The appeals are disposed of in the manner indicated above.

October 31, 2018
Ajay Goswami

(AVNEESH JHINGAN)
JUDGE

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