

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

FAO-5184-2014 (O&M)
Date of decision: 20.11.2018

Aryan and others

.... Appellants

Versus

Kanti Lal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Nitin Rathee, Advocate
for the appellants.

Mr. R.N.Singal, Advocate
for respondent No.2-Insurance Company.

Avneesh Jhingan, J.

The award dated 29.10.2013 passed by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as the 'Tribunal') has been assailed in appeal by the legal heirs of Mainpal.

The driver of truck bearing registration No. RJ-24GA-1350 (hereinafter referred to as the 'truck'), owner of the truck, the insurer of the truck, i.e., United India Insurance Company Ltd. and owner of tanker bearing registration No.HR-45-9143 (hereinafter referred to as the 'tanker'), Superdar of the tanker and insurer of the tanker i.e. United India Insurance Company Ltd. have been arrayed as respondents No.1 to 6 respectively, in the appeal.

The brief facts necessary for adjudication of the appeal are that Mainpal, aged 26 years, was driver of the tanker. A motor vehicular

accident took place on 18.12.2009 involving the truck and the tanker. As a result of the accident, Mainpal suffered injuries and died at the spot.

A claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for brevity, 'the Act') was filed by two minor children and mother of deceased.

The Tribunal, after considering the facts and on appreciating the evidence produced, assessed the monthly income of the deceased as ₹3300/-. 1/3rd deduction for self expenses was made. Multiplier of 17 was applied. The Tribunal awarded a sum of ₹4,76,200/- along with interest @ 7.5% per annum. The amount awarded included ₹20,000/- for last rites and ₹7400/- for transportation charges.

I have heard learned counsel for the parties and perused the paper-book.

Learned counsel for the appellants contended that the Tribunal erred in applying the multiplier of 17 as the deceased was 26 years of age. He argued that no future prospects have been awarded.

Learned counsel for the Insurer defended the award and argued that the amount awarded for funeral expenses is on the higher side. His contention is that the amount awarded under the conventional heads be awarded strictly as per second Schedule to the Act.

In a claim petition filed under Section 163-A of the Act, the rash and negligent driving of the offending vehicle is not required to be proved. It is only the second Schedule of the Act according to which the compensation is to be calculated. No future prospects can be awarded in a

claim petition under Section 163-A of the Act. There is no dispute between the parties that the deceased was 26 years of age at the time of the accident and as per second Schedule of the Act, multiplier of 18 should have been applied.

As the quantum of compensation is being revisited, the amounts awarded under the conventional heads are also being made in consonance with the second Schedule i.e. ₹2000/-for funeral expenses, ₹2500/- for loss of estate and ₹5,000/- for loss of consortium. The consortium is being given, considering the fact that the widow died after the death of the deceased.

The actual bill of transportation of dead body in the ambulance was exhibited to the tune of ₹7400/-, the said amount is also being reimbursed.

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

Monthly income	₹3,300/-
1/3 rd deduction for self expenses	₹1,100/-
Dependency	₹2,200/-
Applying multiplier of 18	₹4,75,200/-
Funeral expenses	₹2,000/-
Loss of estate	₹2,500/-
Loss of consortium	₹5,000/-
Transportation of body	₹7,400/-
Total	₹4,92,100/-

The award dated 29.10.2013 is modified to the extent that the amount of ₹4,76,200/- awarded by the Tribunal is enhanced to ₹4,92,100/-.

The claimants shall be entitled to enhanced amount along with interest @ 7.5% from the date of filing the claim petition till the realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

20.11.2018

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1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No