

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

FAO No.4373 of 2015 (O & M)

Date of Decision:-06.2.2018

The New India Assurance Company Limited

...Appellant

Versus

Smt. Kuldeep Kaur and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Ms. Vandana Malhotra, Advocate
for the appellant.

Mr. Gaurav Tyagi, Advocate
for the respondent.

AMIT RAWAL J.(Oral)

The present appeal is being preferred by the Insurance Company against the award passed by the MACT, Kurukshetra whereby in a petition filed under Section 163(A) of the Motor Accidents Claims Tribunal by the claimants i.e. widow and her major son on account of death of Harbhajan Singh who unfortunately met with an accident and died on 8.9.2014. The compensation of ₹4,06,556/- has been awarded.

Ms. Vandana Malhotra, Advocate learned counsel appearing for the appellant-Insurance Company submits that in a petition filed under Section 163(A) of MV. Act, the learned MACT has committed two fallacies :-

1. The learned MACT has taken the age of the deceased as

54 years, whereas according to PMR placed on record by the claimants, the deceased was 62 years at the time of accident, therefore, the multiplier is liable to be reduced from '11' to '5'.

2. Under the conventional heads, as per Schedule II given in the Motor Vehicles Act, compensation under conventional heads should be ₹9500/-, but the Tribunal has awarded ₹1.25 Lacs under conventional heads, which is on higher side.

Per Contra learned counsel appearing on behalf of respondents submits that there is no illegality and perversity in the award passed by the learned MACT. The age of the deceased was actually 54 years, therefore, the Tribunal has rightly taken the age of the deceased as 54 years by relying upon the PMR (Ex.P-4).

I have heard learned counsel for the parties and appraised the paper book as well as the record of the Tribunal. The age of the deceased was 54 years at the time of accident as per PMR report. In my view, the learned Tribunal has rightly taken the age of the deceased as 54 years and applied multiplier of '11', much less, deduction of 1/3rd.

As regards the conventional heads, the learned MACT has awarded the compensation of ₹1,25,000/- under conventional heads, which is on higher side, whereas as per the Schedule II given in the Motor Vehicles Act, the compensation under conventional heads should have been ₹9500/-, accordingly, the same is hereby reduced from ₹1,25,000/- to ₹9500/-. The amount of compensation is reassessed by taking the income of the deceased as ₹3200/- and applied multiplier of '11', much less, deduction of 1/3rd to assess the loss of dependency as ₹2,81,600/-. However,

I further add an amount of ₹9,500/- towards conventional heads i.e. loss of consortium, loss of estate and funeral expenses as per Schedule II attached with Section 163-A of the Motor Vehicles Act.

In all the compensation payable shall be ₹2,91,100/-. The liability shall remain the same as has already been determined by the Tribunal.

The amount of ₹2,03,278/- already deposited by virtue of order dated 03.11.2016 passed by this Court shall be adjusted.

The statutory amount of ₹25,000/- deposited in this Court is ordered to be sent to the Tribunal for onward disbursement to the claimants.

The award passed by the learned Tribunal is modified to the aforesaid extent.

February 06, 2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No