

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

FAO-6593-2014 (O&M)
Date of decision: 09.01.2018

ORIENTAL INSURANCE COMPANY LTD ...Appellant

Versus

PAL KAUR & ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Neeraj Khanna, Advocate
for the appellant.

Ms. Amandeep Kaur, Advocate for
Mr. Ashwani Arora, Advocate
for respondents No.1 and 2.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 02.05.2014 passed by the Motor Accidents Claims Tribunal, SAS Nagar, Mohali whereby compensation has been awarded in regard to death of Sadhu Ram in a motor vehicular accident that took place on 16.02.2009.

The Tribunal has awarded compensation to the tune of Rs.4,98,200/-, detailed hereunder:-

1. Annual income of the deceased	Rs.39,600/-
2. Multiplier	13
3. Deduction	1/3 rd
4. Loss of dependency	Rs.3,43,200/-
5. Loss of consortium	Rs.1,00,000/-
6. Pain and sufferings	Rs.5000/-

7. Loss of estate	Rs.25,000/-
8. Expenses on funeral	Rs.25,000/-

Counsel for the appellant has submitted that the application for compensation was filed under Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act'), therefore, compensation is liable to be computed in consonance with the structured formula provided in the Second Schedule appended thereto. It is further argued that the Tribunal has wrongly allowed compensation of Rs.1,55,000/- under conventional heads namely loss of consortium, pain and sufferings, loss of estate and funeral expenses. The claimants, at best, can be awarded compensation of Rs.9500/- under three heads provided for in the Second Schedule.

Counsel representing the claimants, on the contrary, has supported the award with the submission that structured formula provided in the Second Schedule as back as in the year 1994 has lost its life and utility in the face of intervening factors because of price index showing upward trend since then.

The legislature in its wisdom introduced Section 163-A of the Act dealing with special provision as to payment of compensation on structured formula basis by Act No.54 of 1994 w.e.f. 14.11.1994. Hon'ble the Supreme Court in **Puttamma and others Vs. K.L. Narayan Reddy and another, 2014(1) ACJ 526** expressed its serious concern with regard to structured formula needed modification. Unfortunately, the legislature till date has not responded to the observations made in **Puttamma's case**

(supra). Nevertheless, till the structured formula provided by the legislation is modified, there is no option with the Court except to award compensation under Section 163-A of the Act in consonance with the Second Schedule, as the claimant seeks compensation by escaping from his obligation to prove rash and negligent driving. In this view of the matter, I find myself unable to accept contention of the claimants that they are entitled to compensation under conventional heads akin to what is allowed under Section 166 of the Act. Accordingly, the award passed by the Tribunal is liable to be modified with regard to compensation under conventional heads. The claimants shall be entitled to an amount of Rs.9500/- under conventional heads, detailed hereunder:-

1. Loss of consortium	Rs.5000/-
2. Funeral expenses	Rs.2000/-
3. Loss of estate	Rs.2500/-

The claimants shall not be entitled to any compensation for pain and sufferings. Accordingly, compensation awarded by the Tribunal is reduced to the extent of Rs.1,45,500/- (1,55,000 – 9500).

The appeal is partly allowed in the aforesaid terms.

09.01.2018

ashok

(REKHA MITTAL)
JUDGE

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