

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

Date of Decision: 06.12.2018

(i) FAO No.4440 of 2016 (O&M)

Smt. Pinki Devi and another

.....Appellants

Versus

Vinod Kumar and others

.....Respondents

(ii) FAO No. 4441 of 2016 (O&M)

Smt. Pinki Devi and another

.....Appellants

Versus

Vinod Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Mukesh Yadav, Advocate for
Mr. Parmod Parmar, Advocate
for the appellants.

Mr. Satpal Dhamija, Advocate
for Reliance General Insurance Company.

Mr. Lalit Garg, Advocate
for National Insurance Company Limited.

AVNEESH JHINGAN, J.(oral)

The award dated 12.4.2012 passed by the Motor Accidents Claims Tribunal, Jhajjar (for short 'the Tribunal') in two claim petitions have been assailed by the claimants for enhancement of compensation awarded under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act').

As these two appeals arise from a common award and from a

common accident, these are being disposed of by a single order.

The brief facts necessary for adjudication of the present appeal are that on fateful day of 9.9.2010, a motor vehicular accident took place between Car bearing registration No.HR-14-F-8365 (for short 'car') and Canter bearing registration No. HR-14-E-0386 (for short 'canter'). Laksh aged 10 days and Harsh aged 2 years, lost their life.

FIR No. 513 dated 10.9.2010 was registered at Police Station Jhajjar. The unfortunate parents filed two claim petitions under Section 163-A of the Act. The Tribunal after considering the facts and appreciating the evidence held that the insurer of car and canter are equally liable to pay compensation in the ratio of 50:50. The Tribunal awarded a lump-sum amount of Rs. 1 lakh for the death of Laksh and Rs.1,50,000/- for the death of Harsh to the claimants.

Learned counsel for the appellants contended that the Tribunal erred in granting the lump-sum amount rather than applying the multiplier in accordance with Second Schedule to the Act.

Learned counsel for the insurance companies could not raise any serious objection with regard to calculating the compensation in consonance with Second Schedule to the Act.

Heard learned counsel for the parties and perused the paper book.

An alternative mechanism has been provided under Section 163-A of the Act for awarding the compensation in a motor vehicular accident. The claimants are not required to prove that the accident was caused due to rash and negligent driving of the offending vehicle but the restriction is that the compensation is to be calculated as per the Second Schedule to the Act.

In the present case, both the claim petitions are under Section 163-A of the Act. Both the deceased are below 15 years of age, hence, the compensation in both the cases are recalculated below as per Second Schedule

to the Act.

Sr. No.	Particulars	Amount Awarded
1.	Annual notional income	Rs.15,000/-
2.	1/3 rd deduction for self expenses	Rs.5000/-
3.	Applying multiplier of 15	Rs.1,50,000/-
4.	Funeral expenses Loss of estate	Rs.2000/- Rs.2500/-
	Total	Rs.1,54,500/-

The award dated 12.4.2012 passed in MACT Case No.18 of 2011 in case of Laksh is modified to the extent that the amount awarded of Rs. 1 lakh is enhanced to Rs.1,54,500/-.

The award dated 12.4.2012 passed in MACT No.19 of 2011 in case of Harsh is modified to the extent that the amount awarded of Rs. 1,50,000/- is enhanced to Rs. 1,54,500/-.

The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

06.12.2018
reema

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No