IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5191 of 2016
DECIDED ON: NOVEMBER 27, 2018

MANJEET KAUR

.....APPELLANT

VERSUS

RAMESH KUMAR AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Ms. Kamlesh, Advocate for
Mr. Parminder Singh, Advocate
for the appellant.

Mr. Raj Kumar Bashamboo, Advocate
for respondent No.3-Insurance Company

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AVNEESH JHINGAN, J (ORAL)

The award dated 20.05.2008 passed by Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') in MACT case No. 183 of 2006, has been assailed in the present appeal seeking enhancement of compensation awarded under Section 163-A of the Motor Vehicles Act, 1988 (for brevity 'the Act').

2. The driver of Swaraj Majda bearing registration No. HR-37-A-2225 (hereinafter referred to as 'offending vehicle'); owner and insurer of the

offending vehicle i.e. The New India Assurance Co. Ltd., have been arrayed as respondents No.1 to 3 respectively in the appeal.

3. The brief facts necessary for adjudication of the present appeal are that on 23.01.2006 Sagar (deceased) alongwith Karamjit Singh after loading vegetables in the offending vehicle started their journey from Delhi to Karnal. On their way, at about 1.30 a.m., some stray animal came in front of the offending vehicle, due to which respondent No.1 suddenly applied brakes, the offending vehicle went out of control and struck another vehicle from behind. As a result of the impact, Sagar suffered injuries and ultimately succumbed to the injuries.

4. A claim petition under Section 163-A of the Act was filed by mother of Sagar (deceased).

5. The Tribunal after considering the facts and appreciating the evidence adduced, held that the accident was caused due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a compensation to the tune of ₹1,52,000/- alongwith interest @7.5% per annum. The amount awarded included ₹ 2000/- on account of funeral expenses.

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

7.. Learned counsel for the appellant contended that the Tribunal has not awarded the compensation in accordance with Second Schedule to the Act. She further stated that in view of facts of the case, she is restricting her claim with regard to interest from the date of filing of appeal only.

8. Learned counsel for the insurer could not raise any serious dispute with regard to calculation of compensation in accordance with Second Schedule to the Act.

9. The contention raised by learned counsel for the appellant deserves acceptance.

10. The deceased was 12 years old and multiplier of 15 is to be applied. There is no dispute with regard to the notional income assessed by the Tribunal as ₹ 20,000/- per annum. The appellant is also entitled to ₹ 2,000/- for funeral expenses and ₹ 2500/- for loss of estate. The Tribunal wrongly made ½ deduction for self expenses. In accordance with the Second Schedule to the Act 1/3 deduction is made.

11 In view of afore-said discussion, the compensation is recalculated as under:

	Head	**Compensation awarded**
(i)	Income	₹20000/- per annum (assessed by the Tribunal)
(ii)	Annual dependency	₹13,333/- (1/3rd deduction)
(iii)	Multiplier	15 (as per age of deceased)
(iv)	Total Dependency	₹13,333x15=₹1,99,995/-
(v)	Funeral expenses	₹2,000/-
(vi)	Loss of estate	₹2500/-
	Total Compensation awarded	₹2,04,495/-

12. The award dated 20.05.2008 is modified to the extent that amount awarded of ₹1,52,000/- is enhanced to ₹2,04,495/-. In view of the averment made by learned counsel for the appellant, the appellant shall be entitled to the enhanced amount alongwith interest @7.5% per annum from the date of filing

of appeal till realization of the amount.

13 The appeal is partly allowed, accordingly.

(AVNEESH JHINGAN)
JUDGE

NOVEMBER 27, 2018
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No