

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 8357 of 2014(O&M)

Date of Decision: 04.07.2018

Shalinder Kumar and others

---Appellants

versus

Mahinder Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Kuldeep Chaudhary, Advocate
for Mr. K.L.Saini, Advocate
for the appellants

Mr. M.B. Jain, Advocate,
for the insurance company

Rekha Mittal, J.

The present appeal directs challenge against award dated 4.2.2013 passed by the Motor Accidents Claims Tribunal, Kurukshetra (in short “the Tribunal”) whereby application under Section 163-A of the Motor Vehicles Act, 1988 for grant of compensation on account of death of Manoj Kumar was dismissed by the Tribunal.

On April 29, 2016, notice of motion was issued only for addressing a claim under 'no fault liability' against the insurer. A relevant extract therefrom reads as follows:-

“It is a case of death of a motorcyclist resulting from a collision with the mule cart. No claim for compensation is possible against his own insurer under Section 163-A of the Motor Vehicles Act. The claim, would, however, be considered for

awarding compensation of Rs. 50,000/- on no fault liability against the insurer in the manner contemplated in the decision of Eshwarappa @ Maheshwarappa and Anr. vs. C.S. Gurushanthappa and Anr 2010(8) SCALE 263.

Notice is issued only for addressing a claim under no fault liability against the insurer.

Notice to respondent No. 1 dispensed with. Issue notice respondent No. 2 only for 9.9.2016.”

Counsel for the insurance company has not disputed liability of the insurance company to pay compensation of Rs. 50,000/- for 'no fault liability' in the light of judgment of Hon'ble the Supreme Court Eshwarappa @ Maheshwarappa and Anr's case (supra). Accordingly, the appeal is partly allowed. Award passed by the Tribunal is modified to the extent that the claimants shall be entitled to Rs. 50,000/- under 'no fault liability' alongwith interest @ 7.5% per annum from the date of petition till realization. The compensation shall be shared by the widow and minor son of the deceased in the ratio 30:70. The amount falling to share of the minor shall be invested in fixed deposit, payable on his attaining age of majority or for a period of three years, whichever is later.

Disposed of.

(Rekha Mittal)
Judge

04.07.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No