

DIWAKER GULATI
2018.09.25 12:40**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****FAO No. 230 of 2018(O&M)****Date of decision: 20.9.2018**

Reena Devi and others

.....Appellants

VERSUS

The Oriental Insurance Co. Ltd. and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R.S. Mamli, Advocate for the appellants

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal, Yamunagar at Jagadhri (in short 'the Tribunal') on account of death of Rinku son of Phool Singh in a motor vehicular accident that took place on 06.01.2013.

The Tribunal has awarded compensation of Rs.4,31,900/- (rounded off to Rs.4,32,000/-) detailed hereunder:-

Monthly income of the deceased	Rs.3300/-
Deduction for personal expenses	1/3 rd
Multiplier	16
Loss of dependency	Rs.4,22,400/-
Funeral expenses	Rs.2000/-
Loss of consortium	Rs.5000/-
Loss to estate	Rs.2500/-

Counsel for the appellants would urge that application for compensation has been filed by the widow, two minor children and mother of the deceased, held to be dependent on his earning, therefore, deduction for personal expenses should be 1/4th. Another submission made by counsel is that the Second Schedule appended to Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act') has been amended and compensation payable under Section 163-A of the Act has been enhanced to Rs.5 lakhs by way of notification issued in the year 2018.

The application for compensation has been filed under Section 163-A of the Act wherein it is required to be assessed in consonance with structured formula laid down in Second Schedule appended thereto. Perusal of the award would reveal that compensation assessed by the Tribunal is in complete consonance with the structured formula, therefore, claimants cannot seek for enhancement of compensation by deviating from the formula provided by the legislature. So far as plea of the claimants in respect of notification issued in the year 2018, counsel has failed to point out if the notification has retrospective effect or can be applied to the accident that took place prior to issuance of notification. That being so, the appellants cannot derive any advantage to their contention from the notification issued in the year 2018.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

SEPTEMBER 20, 2018

'D. Gulati'

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no