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

IOIN-FAO-4253-2002 in/and
FAO No.4253 of 2002
Date of Decision: 19.09.2019

Karnail Singh and others

.....Appellants

Versus

Sher Singh and others

........Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Saksham Mahajan, Advocate
for the appellants.

None for respondent Nos.1 and 2.

Mr. Ravinder Arora, Advocate
for respondent No.3-insurance company.

NIRMALJIT KAUR, J. (ORAL)

The present appeal has been filed for enhancement of compensation as awarded by the Motor Accident Claims Tribunal, Patiala (for short, the Tribunal), vide award dated 18.09.2001.

While praying for enhancement of compensation, learned counsel for the appellants submitted that only an amount of ₹1,02,000/- was awarded as compensation, which is on the lower side. The income was assessed only ₹1,000/- per month by the Tribunal, whereas, deceased was a housewife and also running a milk dairy, it should have been at least ₹9,000/- per month as per the evidence on record.

Admittedly, the appellants have not impleaded the P.R.T.C. as party, who was also held liable for contributory negligence. Therefore, 50% deduction already made by the Tribunal cannot be set aside.

Learned counsel for the respondent/insurance company has however pointed out that the claim petition was filed under Section 163-A of the Motor Vehicles Act, 1988, therefore, the income could not have been taken more than ₹3300/- per month. The claim petition although was filed under Section 163-A of the Motor Vehicles Act, 1988 but the same was allowed by the Tribunal under Section 166 of the Motor Vehicles Act, 1988 and no cross appeal has also been filed. If it is so, learned counsel for the respondent/insurance company do not dispute that in case the claim has to be considered under Section 166 of the Motor Vehicles Act, which was done by the Tribunal then the appellants are entitled to the income of ₹5,000/- per month. It is also not disputed that the appellants are entitled to ₹70,000/- towards conventional heads.

In view of the above, the income of is now assessed as ₹5,000/- and also granting the amount of ₹70,000/- towards conventional heads, the appellants are now entitled to the enhanced compensation as per the calculation provided under:-

Sr. No.	**Head**	**Amount assessed**
1	Income	₹5,000/- per month ₹60,000/- per annum
2	Multiplier	17
3	Compensation	₹60,000 x 17 = ₹10,20,000/-
4	Conventional Heads	₹70,000/-
5	Total	₹10,90,000/-
6	50% deduction on account of contributory negligence	₹5,45,000/-
7	Compensation awarded by the Tribunal	₹1,02,000/-
8	Differences	₹5,45,000 – 1,02,000 = ₹4,43,000/-

Thus, the enhanced compensation of ₹4,43,000/- be paid to the appellants within two months from the receipt of certified copy of this order alongwith 6% interest per annum from the date of filing of claim petition till its realization. In case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

The appeal is disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

19.09.2019
sandeep

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No