

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

FAO-1812-2003 (O&M)

Date of decision: 05.03.2019

Inderjeet Kaur and others

...Appellants

Versus

Baldev Singh and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Sanjiv Ghai, Advocate
for the appellants.

Mr. Dheeraj Narula, Advocate for respondent No.1.

Mr. Pardeep Goyal, Advocate for respondent No.2.

H.S. MADAAN, J. (Oral)

On account of death of Amrik Singh son of Gurdeep Singh, aged about 30/31 years, statedly working as a driver earning Rs.3000 per month, in addition to that, engaged in avocation of milk dairy and getting an additional income therefrom, in a road side accident, which took place on 19.03.2001, in the area near Village Tibbi, District Hanumangarh, due to a sudden defect in car bearing registration No.DL-1-CD/1051, which Amrik Singh himself was driving, his legal representatives, namely, his wife Smt. Inderjeet Kaur, aged about 29 years, minor son Amarjeet Singh, aged about 09 months, minor daughter Nensi, aged about 06 years, minor son Manmohan Singh, aged about 04 years, father Gurdeep Singh and mother Surjeet Kaur had brought a claim petition under Section 163-A of

the Motor Vehicles Act, 1988 against the respondents i.e. Baldev Singh-owner and the New India Insurance Company Ltd., -insurer of offending car No.DL-1-CD/105. That claim petition was allowed by Motor Accidents Claims Tribunal, Sirsa, vide award dated 03.10.2002 and compensation of Rs.2,65,500/- was awarded to the claimants payable by both the respondents jointly and severally. The amount was apportioned among the claimants as per details given in the award.

The claimants feeling that the compensation amount awarded was on the lower side, have approached this Court by filing the present appeal, notice of which was given to the respondents, who have put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The tribunal has taken monthly income of the deceased to be Rs.2000/- per month, however, in view of the evidence adduced by the claimants in the form of statement of claimant Inderjeet Kaur, appearing as PW-1, which I do not see any reason to disbelieve and in view of the minimum wages of a skilled labourer in the State of Haryana at the relevant time, I find that monthly income so taken by the tribunal is on the lower side and it should be Rs.3300 per month. Since, it is a petition under Section 163-A of the Motor Vehicles Act, the compensation to be awarded is to be determined in view of the said provision and Second Schedule under the Section.

As the tribunal has taken the age of the deceased to be 32 years, the appropriate multiplier to be applied was 17 instead of 16. That

error is rectified now. The tribunal had rightly deducted 1/3rd of the amount towards personal expenses of the deceased, in view of the note in the Second Schedule. In that way, annual dependency of the claimants is worked out to Rs.4,48,800/-(Rs.2200X12X17).

The tribunal had correctly awarded funeral expenses of Rs.2000/-, a sum of Rs.5000/- towards loss of consortium and Rs.2500/- for loss of estate. Adding the said amount, the compensation payable is worked out to Rs.4,58,300/-.

The tribunal has awarded compensation of Rs.2,65,500/-. In that way, the claimants are entitled to additional compensation of Rs.1,92,800/-(Rs.4,58,300-Rs.2,65,500/-). The appeal in that way is allowed partly and an additional compensation of Rs.1,92,800/- is awarded to the claimants, payable by both the respondents jointly and severally. The claimants shall be entitled to get this additional amount along with interest @ 7.5 p.a., from the date of filing of claim petition till actual realization along with costs of the petition. The direction regarding apportionment and other terms & conditions shall remain the same as given in the original award subject to the condition that deposit of share in the additional compensation in names of the claimants, who were minors earlier, shall not apply, if they have attained majority now.

05.03.2019

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(H.S. MADAAN)
JUDGE

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