

FAO No.1876 of 2006

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

FAO No.1876 of 2006
Date of decision: 17.09.2019

Smt. Sarabjit Kaur and others

.....Appellants

versus

Baldev Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Ms. Neeru Bansal, Advocate, for the appellants.
Mr. Abhishek Goyal, Advocate,
for Mr. Pardeep Goyal, Advocate, for respondent No.2.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, claimants have sought enhancement of compensation, modifying impugned award dated 14.12.2005 of the Motor Accident Claims Tribunal, Amritsar (in short 'the Tribunal'), awarding them compensation of ₹1,58,350/- along with interest @ 6% per annum from the date of filing claim petition till realization in their claim petition under Section 163-A of the Motor Vehicles Act (in short 'the Act').

Briefly, in the night of 09.05.2003, deceased Harjinder Singh, driving motorcycle along with his mother Pal Kaur as a pillion rider, when reached ahead of Sheoran Sugar Mill at Tarn Taran-Hariker Road, his motorcycle struck in a mule cart going ahead of him. As a result thereof, Pal Kaur, mother of deceased Harjinder Singh fell down from the motorcycle, whereas his motorcycle slightly turned towards right side of the road, which resulted into its hitting with bus bearing registration No.PB-02-

FAO No.1876 of 2006

X-9986, driven by respondent No.1 coming from opposite side. Resultantly, deceased Harjinder Singh was dragged to a distance by offending bus, resulting into his death after catching fire.

With these broad submissions, appellants filed claim petition under Section 163-A of the Act before the Tribunal, who after holding trial, awarded a sum of ₹1,58,350/- along with interest @ 6% per annum from the date of filing claim petition till realization, deducting 50% out of the total compensation of ₹3,07,200/- for not impleading owner of the motorcycle driven by deceased Harjinder Singh.

Learned counsel for the appellants *inter alia* contends that by amendment, Section 163-A has been replaced with Section 164 of the Act. Therefore, appellants should be granted compensation in accordance with newly added Section 164 of the Act.

On the other hand, learned counsel for the Insurance Company, refuting above submissions, contends that Section 164 of the Act has no retrospective application inasmuch as it has been made applicable from the date of its notification in the official gazette.

Having given thoughtful consideration to the rival submissions, this Court finds the instant appeal merits dismissal for the reasons to follow.

There is no scope of enhancement of compensation in this appeal inasmuch as claim petition was filed by the appellants under Section 163-A of the Act, wherein compensation has to be awarded as per Second Schedule. Perusal of impugned award shows that the Tribunal taking into account income of deceased Harjinder Singh at ₹2,400/- per month i.e. more than the prescribed prevalent minimum wages of ₹2,050/- per month at the

FAO No.1876 of 2006

time of his death and calculating compensation strictly in accordance with Second Schedule of the Act, awarded compensation of ₹1,58,350/-, after deducting 50% for not impleading owner of the motorcycle driven by deceased at the time of accident.

In view of the discussion made above, appeal is dismissed. However, in the interest of justice, rate of interest i.e. 6% per annum on the awarded amount by the Tribunal is modified to 7.5% per annum from the date of filing claim petition till realization, which the Insurance Company would deposit with the Tribunal within a month from today, for onward disbursement to the appellant-claimants, failing which Insurance Company would be liable to pay interest @ 15% per annum from the date of filing claim petition till realization.

(Ramendra Jain)
Judge

September 17, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No