

209(1/2)

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. FAO No.10264 of 2014 (O&M)
Date of Decision: 13.02.2019

Brijwati

Appellant

Versus

Jasbir Singh and others

Respondents

2. FAO No.10349 of 2014 (O&M)

Brijwati

Appellant

Versus

Jasbir Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vikram Bali, Advocate
for the appellant.

Ms. Rajni Yadav, Advocate
for respondent No.2-Owner.

Mr. D.K. Dogra, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

These are two appeals arising from two separate awards dated 26.03.2013 passed by the Motor Accident Claims Tribunal, Panchkula [for brevity 'the Tribunal'] in MACT Case No.3 and 4 of 2010, seeking enhancement of compensation awarded under Section 163-A of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The unfortunate mother who lost her husband and two

minor children in a motor vehicular accident which took place on 28.06.2010 is the appellant. The driver, owner and insurer (i.e. United India Insurance Company Ltd.) of Tata Tempo 407 bearing registration No.PB-08K-6211 [hereinafter referred to as 'offending vehicle'] are respondents No.1 to 3 respectively in both the appeal.

Brief facts of the case are that on 28.06.2010, Satbir Singh alongwith his wife and children was going to Samrala to attend a marriage. They were going on foot, on their way, the offending vehicle hit them. As a result of the impact, Satbir Singh and two minor children lost their lives. Two claim petitions were filed under Section 163-A of the Act seeking compensation for death of Ravi, aged 6 years and Aarti, aged 1½ years. The Tribunal awarded a sum of ₹2,50,000/- alongwith interest @ 6% per annum for death of Ravi and ₹1,50,000/- alongwith interest @ 6% per annum for death of Aarti.

Heard learned counsel for the parties, perused the paper book and record.

FAO No.10264 of 2014:

Learned counsel for the appellant contends that the Tribunal erred in awarding lump sum compensation of ₹2,50,000/- instead of applying multiplier method.

The claim petition was filed under Section 163-A of the Act, in such cases, compensation is to be awarded as per structured formula provided in Second Schedule to the Act. The deceased was

6 years old and non-earning individual at the time of accident. As per Second Schedule, notional income is to be taken as ₹15,000/- per annum and multiplier of '15' is to be applied.

In the present case, lump sum compensation has been awarded but the amount awarded is abundant i.e. it is more than the amount to be paid as per structured formula.

No interference is called for in impugned award for enhancement.

The appeal is dismissed.

FAO No.10349 of 2014:

Learned counsel for the appellant contends that amount awarded of ₹1,50,000/- for death of Aarti, aged 1½ years is on the lower side. His argument is that though the claim petition was filed under Section 163-A of the Act, the compensation under conventional heads should be awarded as is done under Section 166 of the Act.

The contention raised is ill founded. A structured formula is provided under Second Schedule to the Act. In the claim petition filed under Section 163-A of the Act, claimants are not required to prove rash and negligent driving of the offending vehicle. The restriction is that compensation is to be awarded as per Second Schedule. Considering that the deceased was non-earning individual, her notional income is to be assessed as ₹15,000/- per annum. The amount awarded by the Tribunal needs no interference.

The compensation under conventional heads under Section 166 of the Act cannot be awarded under Section 163-A of the Act as the amounts to be awarded under various heads are also duly mentioned in the Second Schedule to the Act.

The appeal is dismissed.

[AVNEESH JHINGAN]
JUDGE

February 13, 2019
pankaj baweja

1. Whether speaking/ reasoned

:

Yes/ No
2. Whether reportable

:

Yes/ No