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

**FAO No.1699 of 2014 (O&M)
Date of Decision : 05.04.2019**

Sukhdev Singh @ Sukhwinder Singh and others

Appellants

Versus

Mahal Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ishan Cooner, Advocate for
Mr. Jagram Singh Cooner, Advocate
for the appellants.

Mr. Hemant Aggarwal, Advocate for
Mr. Mayank Mathur, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral)

The award dated 04.07.2013 passed by the Motor Accident Claims Tribunal, Amritsar [for brevity 'the Tribunal'] has been assailed by the legal heirs of Balwinder Kaur seeking enhancement of compensation awarded under Section 163-A of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The owner, driver and insurer (i.e. M/s Oriental Insurance Company Ltd.) of TATA Sumo bearing registration No. PB-02G-0989 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the

appeal.

There is no dispute between the parties with regard to factum of accident. A motor vehicular accident took place on 15.12.2011. Two vehicles were involved in the accident i.e. motorcycle bearing registration No. PB-38C-1009 and offending vehicle. The accident proved fatal for Balwinder Kaur. DDR No.30, dated 15.12.2011 was recorded at Police Station Harike.

In the claim proceedings, it was pleaded that the deceased was a house wife. The Tribunal awarded compensation as per Second Schedule to the Act. She was a non-earning member and there was nothing on record with regard to income of the surviving spouse, the Tribunal considered annual notional income of the deceased as ₹15,000/- and multiplier of '13' was applied as the deceased was in the age group of 45-50 years. The Tribunal awarded ₹1,84,500/- as compensation alongwith interest @ 6% per annum. The amount awarded included ₹9,500/- under the conventional heads.

Learned counsel for the appellants contends that the compensation needs to be enhanced.

Learned counsel for the appellants is not able to make out that compensation has not been awarded in accordance with structured formula provided in the Second Schedule to the Act. He has also not been able to dispute the fact that there was nothing on record to prove the earning of the surviving spouse.

No scope for enhancement of compensation is made out.

From the perusal of the award, it is evident that calculation error was committed by the Tribunal. By applying multiplier of '13' on notional income of ₹15,000/-, the amount comes to ₹1,95,000/-, whereas the Tribunal mentioned it as ₹1,75,000/-. The same is rectified and the claimants shall be entitled to ₹1,95,000/- alongwith ₹9,500/- under the conventional heads as awarded by the Tribunal. The claimants are held entitled to the total compensation of ₹2,04,500/-.

However, the claimants shall be entitled to the balance compensation, as rectified by this Court, alongwith interest as awarded by the Tribunal.

The appeal is consequently dismissed.

[AVNEESH JHINGAN]
JUDGE

April 05, 2019
pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |