IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 1878 of 2015(O&M)

Date of Decision: January 31 , 2019.

National Insurance Company Ltd. ...... APPELLANT (s)

Versus

Kanti Devi and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. R.C.Kapoor, Advocate
for the appellant.

Mr. Gurmeet Singh, Advocate
for respondents No.1 to 3/claimants.

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LISA GILL, J.

This appeal has been filed by the Insurance company challenging award dated 10.11.2014 passed by the learned Motor Accident Claims Tribunal, Palwal (hereinafter referred to as, the 'Tribunal') whereby compensation has been afforded to the claimants/respondents No.1 to 3 in a petition under Section 163A of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act') filed by them.

Brief facts necessary for the adjudication of the case are that, the claimants/respondents No.1 to 3 filed a petition under Section 163A of the Act seeking compensation on account of death of Gulvir Singh, who lost his life in a motor vehicle accident which took place on 10.07.2013. DDR No.6 dated 11.07.2013 (Ex.P1) was entered in respect to the incident. Compensation to the tune of ₹6,00,000/- was prayed for by the claimants, who are minor children and widow of the deceased.

Learned Tribunal on consideration of the facts, circumstances of the case and the evidence on record concluded that Gulvir Singh, who was driving the tractor trolley bearing registration No.UP-81-AT-4676 on 10.07.2013 died due to the use of said vehicle.

Learned Tribunal while assessing income of the deceased-Gulvir Singh aged 60 years, as ₹3,300/- per month, awarded a total sum of ₹3,17,300/-. Deduction was effected to the extent of 1/4th towards personal expenses and multiplier of 9 was applied. ₹20,000/- was awarded to the widow on account of loss of consortium. Another sum of ₹20,000/- was awarded on account of loss of estate, besides, ₹10,000/- towards funeral expenses.

Learned counsel for the appellant-insurance company argues that learned Tribunal has wrongly effected deduction at the rate of 1/3rd instead of 1/4th and a multiplier of 9 instead of 8 was wrongly applied. Moreover, under the conventional heads, the learned Tribunal has erred in awarding compensation beyond the prescribed amount in the Second Schedule to the Act. It is thus prayed that this appeal be allowed.

Learned counsel for the claimants/respondents No.1 to 3 however prays that the impugned award has been rightly passed in the facts and circumstances of the case. Compensation so awarded be upheld. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the file.

It is not in dispute that petition under Section 163A of the Act was filed by the claimants seeking compensation to the tune of ₹6,00,000/-. It is a settled position that while affording compensation under Section 163A of the Act, the courts are to be guided strictly by the Second Schedule to the Act. Accordingly, deduction of 1/3rd instead of 1/4th is effected towards personal expenses and a multiplier of 8 instead of 9 is to be applied. Moreover, the claimants/respondents No.1 to 3 are entitled to a sum of ₹2,500/- instead of ₹20,000/- on account of loss of estate and ₹2,000/- instead of ₹10,000/- towards funeral expenses. Appellant No.1/widow is entitled to a sum of ₹5,000/- instead of ₹20,000/- on account of loss of consortium.

Compensation awarded to the claimants/respondents No.1 to 3 is consequently reduced and reworked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	3,300 p.m. 39,600 p.a.
2.	Deduction of 1/3rd	39,600 – (39,600 x 1/3) = 26,400
3.	Total dependancy after applying a multiplier of 8	(26,400 **x** 8) = 2,11,200
4.	Loss of estate	2,500
5.	Funeral expenses	2,000
6.	Loss of consortium	5,000
	Grand Total	₹2,20,700/-

Appeal is accordingly allowed.

(LISA GILL)
JUDGE

January 31 , 2019.
'om'

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No