IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4252 of 2013
Date of decision: 18.09.2019

Vinod Kumar and others

.......Appellants

versus

National Insurance Company Limited and others

......Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Ms. Bhavna Grewal, Advocate,
for Mr. S.K. Yadav, Advocate, for the appellants.
Mr. Neeraj Khanna, Advocate, for respondent No.1.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, claimants have sought enhancement of compensation, modifying impugned award dated 22.04.2013 of the Motor Accident Claims Tribunal, Narnaul.

Briefly, in the day time of 24.04.2009, Smt. Geeta Yadav a pillion rider, travelling on motorcycle bearing registration No.HR-34A-9487, driven by her husband, when reached near bus stand and big gate of Village Lukhi, District Rewari, an ox suddenly appeared in front of them and string of it entangled in their motorcycle. Despite making his best efforts, husband of Geeta Yadav could not control the motorcycle and it slipped. As a result thereof, Geeta Yadav received multiple grievous injuries on her person, whereas her husband and daughter, also a pillion rider on the motorcycle, suffered minor injuries. Geeta Yadav was shifted to a private hospital, where she was declared brought dead. Thereafter, her postmortem examination was got conducted from Civil Hospital, Mohindergarh. Geeta Yadav before her death was earning ₹3,300/- per month by doing household works and animal husbandry.

With these broad submissions, appellant-claimants filed claim petition under Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act') against the respondents, wherein the Tribunal vide impugned award dated 22.04.2013 awarded a compensation of ₹3,08,000/- to the appellants along with interest @ 7.5% per annum from the date of filing claim petition till realization.

Learned counsel for the appellants *inter alia* contends that the Tribunal has illegally considered income of the deceased at ₹1,700/- per month, without any basis. The Tribunal ought to have taken her income at ₹3,300/- per month, specifically deposed by the appellant-claimants inasmuch as the same could not be rebutted or falsified by the respondents. Learned counsel for the appellant-claimants has produced calculation (Mark – 'A'), according to which as per structured formula under Section 163 of the Act, the appellants are entitled to compensation of ₹4,31,900/- less ₹3,08,000/- awarded by the Tribunal; meaning thereby, appellants are entitled to ₹1,23,900/- more over and above the aforesaid awarded amount.

Learned counsel for respondent No. 1-Insurance Company has not been able to controvert or point out any infirmity in the above calculations (Mark-A). Hence, the same is accepted.

In view of the above, the appellant-claimants are held entitled to compensation of ₹1,23,900/- more over and above the amount of ₹3,08,000/- already awarded by the learned Tribunal, vide Award impugned herein. Respondent No.1-Insurance Company, through its counsel is directed to deposit the aforesaid enhanced amount of compensation before the learned Tribunal within one month from today, along with up-to-date interest @ 7.5% per annum from the date of filing of claim petition till realization, for onward disbursement to the appellant-claimants, in proportion so arrived at by it, in accordance with law against proper receipt and identification.

In case aforesaid enhanced amount is not deposited within stipulated time, Insurance Company would be liable to pay the same with interest @15% per annum from the date of institution of claim petition till realization.

Disposed of .

(Ramendra Jain)
Judge

September 18, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No