

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

FAO No. 4907 of 2014 (O&M)

Date of decision : September 04, 2019

Satya Devi and another

.....Appellants

Versus

Jai Ram Saini and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. K.S. Banyana, Advocate
for the appellants.

Mr. Akash Sridhar, Advocate for
Mr. Satpal Dhamija, Advocate
for respondent No. 2.

Ms. Monika Jhangra, Advocate for
Ms. Vandana Malhotra, Advocate
for respondent No. 5.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as the 'Tribunal') on account of death of Jitender Kumar vide award dated 11.02.2014.

Brief facts necessary for adjudication of the case are that the appellants alongwith their other son Rohit filed a petition under Section 163-A of the Motor Vehicles Act (for short – 'the Act') seeking compensation on account of death of Jitender Kumar (their son) on 09.10.2011 in a motor vehicle accident caused due to rash and negligent driving of the offending Motorcycle bearing registration No. HR-41C-7097 by its driver. The deceased was claimed to be 20 years old, working as a skilled electrician and earning a sum of ₹3200/- per month.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 09.10.2011 due to rash and negligent driving of the offending Motorcycle bearing registration No. HR-41C-7097 by its driver. Learned Tribunal awarded a sum of ₹3,70,600/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹3200/- per month. 50% deduction was effected. Multiplier of 18 was applied as the deceased was 20 years old at that time. Additionally, a sum of ₹2,000/- on account of funeral expenses was awarded.

Learned counsel for the appellants submits that there is no dispute regarding income of the deceased assessed as ₹3200/- per month, however, deduction of 1/3rd should be effected. Moreover, the Tribunal has not awarded compensation on account of loss of estate. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 11.02.2014 be upheld.

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

Present is a case wherein petition under Section 163-A of the Act has been filed. Compensation has to be awarded to the claimants in terms of Schedule II of the Act. There is no dispute regarding income of the

deceased to be ₹3,200/- per month as assessed by the learned Tribunal. There is further no dispute regarding the age of the deceased or of his death in the motor vehicle accident which took place on 09.10.2011 due to rash and negligent driving of the offending Motorcycle bearing registration No. HR-41C-7097, by its driver. However, learned Tribunal has erred in effecting deduction of 50%. As per Schedule II of the Act, deduction of 1/3rd has to be effected, thereby rendering income of the deceased to be ₹2133/-(3200-1067). The deceased was 20 years old at the time of the accident, his date of birth being 20.03.1992. Therefore, multiplier of 16 has to be applied. Dependency of the claimants is, therefore, assessed as ₹4,09,536/- (₹2133x12x16). A sum of ₹2,000/- for funeral expenses as awarded by the learned Tribunal is maintained. The claimants are also entitled to a sum of ₹2,500/- for loss of estate.

Claimants are, thus, entitled to total compensation of ₹4,14,036/- detailed as under:-

Loss of dependency (₹2133x12x16)	₹4,09,536/-
Loss of estate	₹2,500/-
Funeral expenses	₹2,000/-
Total	₹4,14,036/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

September 04, 2019
rts

(Lisa Gill)
Judge

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