

FAO- 3329 of 2016(O&M)

Date of Decision: 8.7.2019

Cholamandlam MS General Insurance Company

---Appellant

versus

Prem Devi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Punit Jain, Advocate
for the appellant

Mr. R.S.Budhwar, Advocate,
for respondents No. 1 to 7

Mr. Rajesh Dhankar, Advocate
for Mr. Ashok Kumar Sehrawat, Advocate
for respondents No. 8 and 9

Rekha Mittal, J.

The present appeal directs challenge against award dated 1.3.2016 passed by the Motor Accidents Claims Tribunal, Sonapat (in short “the Tribunal”) whereby compensation has been assessed on account of death of Siri Ram in a motor vehicular accident that took place on 24.3.2014.

The sole submission made by counsel for the appellant is that claimants-respondents filed claim application under Section 163-A of the Motor Vehicles Act, 1988 (in short “the Act”). It is argued that as per averments raised in the claim application, the deceased was agriculturist and his monthly income was Rs. 3300/- per month and Rs. 18,000/- from pension as retired teacher from Education Department, therefore, the

application for compensation under Section 163-A of the Act is not maintainable. To bring home his contention, it is argued that claim under Section 163-A of the Act can be maintained if annual income of deceased is less than Rs. 40,000/-.

Counsel for the respondents-claimants is not in a position to refute contention of the insurance company with regard to claim being not maintainable in the given circumstances.

Since the respondents-claimants could not maintain a claim for compensation under Section 163-A of the Act, in view of their averments that deceased was earning Rs. 21,300/- per month both from agriculture and pension, the Tribunal committed a grave error by proceeding to assess compensation by assessing income of deceased at Rs. 3300/- per month. That being so, the application for compensation is liable to be dismissed and award passed by the Tribunal is liable to be set aside.

In view of what has been discussed hereinbefore, the appeal is allowed. The award passed by the Tribunal is set aside. The application filed by the claimants is dismissed. However, nothing stated hereinbefore shall cause prejudice to right of the claimants to take recourse to appropriate proceedings for grant of compensation in view of the present being hit and run case.

(Rekha Mittal)
Judge

8.7.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No