In the High Court of Punjab and Haryana at Chandigarh

FAO- 4175 of 2016(O&M) and
Cross objections No. 257-CII of 2016
Date of Decision: 2.7.2019

United India Insurance Company Limited

---Appellant

versus

Amaro Devi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Harsh Aggarwal, Advocate
for the appellant

Mr. Vipul Sharma, Advocate,
for Mr. Nitin Mittal, Advocate
for respondent No. 1-cross objector

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Rekha Mittal, J.

This order will dispose of FAO No. 4175 of 2016 and Cross objections No. 257-CII of 2016 as these have emerged out of the same award dated 25.3.2016 passed by the Motor Accidents Claims Tribunal, Ambala (in short “the Tribunal”) whereby compensation has been assessed on account of death of Vikram that took place on 6.12.2014.

FAO No. 4175 of 2016 has been filed by the United India Insurance Company Limited (hereinafter referred to as 'the insurance company”) whereas the cross objections have been filed by the claimant-respondent No. 1 seeking enhancement of compensation.

FAO-4175 of 2016 and Cross objections No. 257-CII of 2016

The sole submission made by counsel for the insurance company is that application for compensation has been filed under Section 163-A of the Motor Vehicles Act, 1988 (in short "the Act") and as such compensation is liable to be assessed in the light of structured formula laid in 2^{nd} Schedule appended thereto. It is argued that the Tribunal has awarded a sum of Rs, 75000/- towards loss of love and affection but no compensation for loss of love and affection is available under the 2^{nd} schedule.

Counsel representing the claimants has not disputed that compensation for loss of love and affection is not available under Section 163-A of the Act. However, he has submitted that the Tribunal has wrongly applied multiplier of 13 in place of an appropriate multiplier on the basis of age of the deceased who was 21 years old at the time of occurrence.

Be that as it may, it is undisputed position of the case that claim has been preferred under Section 163-A of the Act and compensation is liable to be assessed in view of structured formula envisaged in the 2^{nd} schedule appended thereto. The Tribunal has rightly assessed income of the deceased at Rs. 3300/- per month and applied deduction of $1/3^{rd}$ for personal expenses. The deceased was 21 years old as per his age recorded in the post mortem report and multiplier of 17 is admissible in the given circumstances. Accordingly, loss of dependency is calculated at Rs. 4,48,800/- [3300x12x17=6,73,200-2,24,400($1/3^{rd}$).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 4500/-, detailed hereunder:-

Funeral expenses	Rs. 2000/-
Loss of estate	Rs. 2500/-

Total compensation is Rs. 4,53,300/- and the additional amount is Rs. 33,100/- (4,53,300-4,20,200), payable with interest @ 7.5% per annum from the date of petition till realization to mother of the deceased.

For the foregoing reasons, the appeal and cross objections are disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

2.7.2019
PARAMJIT

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