

217

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

**FAO No.8912 of 2014 (O&M)
Date of Decision: 23.01.2019**

Mrs. Raj Bala and others

Appellants

Versus

Shiv Charan and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gaurav Gupta, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 05.02.2014 passed by the Motor Accident Claims Tribunal, Ambala [for brevity 'the Tribunal'] has been assailed by legal heirs of Raj Kumar, seeking enhancement of compensation awarded under Section 163-A of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The brief facts necessary for adjudication of the present appeal are that on 01.04.2013, a motor vehicular accident took place involving motorcycle bearing registration No. HR-04A-4276 [hereinafter referred to as 'offending vehicle']. The said accident proved fatal for Raj Kumar. DDR No. 15, dated 05.04.2013 was registered at Police Station Naraingarh.

A claim petition was filed under Section 163-A of the Act. The Tribunal after considering the facts and appreciating the evidence adduced held that the offending vehicle was involved in the accident. The income of deceased was assessed as ₹3,300/- per month; 1/3rd deduction for self-expenses was made and multiplier of '11' was applied. His age was taken as 55 years, relying upon the post-mortem report. The Tribunal awarded compensation of ₹3,10,000/- alongwith interest @ 7.5% per annum. The amount awarded included ₹9,500/- under the conventional heads and ₹10,090/- for medical expenses incurred during the treatment.

Alongwith this appeal, an application was filed to place on record copy of Ration Card, Aadhaar Card and School Leaving Certificate. As per the documents annexed, deceased was 48 years old at the time of accident.

Learned counsel for the appellants contends that the Tribunal erred in applying multiplier of '11' instead of '13'.

Learned counsel for the insurer argues that the said documents were not produced before the Tribunal and the same needs to be verified.

From the perusal of the documents produced, it is evident that as per all the three documents, deceased was 48 years old at the time of accident. In such circumstances, multiplier of '13' is to be applied in accordance with Schedule-II to the Act.

In view of above, the compensation is re-calculated as under:-

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed by the Tribunal	3,300/-
1/3 rd deduction for self-expenses	1,100/-
Monthly Dependency	2,200/-
Annual Dependency	26,400/-
Applying Multiplier of '13'	3,43,200/-
Funeral Expenses, as awarded by the Tribunal	2,000/-
Loss of Estate, as awarded by the Tribunal	2,500/-
Loss of consortium to widow, as awarded by the Tribunal	5,000/-
Medical expenses during treatment, as awarded by the Tribunal	10,090/-
Total Compensation	3,62,790/-

The award dated 05.02.2014 is modified to the extent that amount of ₹3,10,000/- awarded by the Tribunal is enhanced to ₹3,62,790/-.

The claimants shall be entitled to enhanced amount alongwith interest as awarded by the Tribunal, from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the aforesaid terms.

It is clarified that in case insurer finds on verification of documents attached with CM, that these are not worth reliance, it would be at liberty to revive the appeal by moving an application.

January 23rd, 2019

pankaj baweja

[AVNEESH JHINGAN]

JUDGE

1. Whether speaking/ reasoned

:

Yes/ No
2. Whether reportable

:

Yes/ No