IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.6898 of 2016 (O&M)
Date of Decision: 08.02.2019

Rupa Singh ......Appellant.

Versus

Manpreet Singh and others

...... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ithlesh, Advocate
for Mr. L.S.Sidhu, Advocate
for the applicant-appellant.

Mr.Vinod Gupta, Advocate
for respondent no.3-Insurance Company.

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LISA GILL, J.

Appellant-claimant, seeks enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Patiala (for short 'tribunal'), vide impugned award dated 30.09.2013, on account of death of Taro wife of Dhanna Singh.

As per the averments in the claim petition under Section 163-A of the Motor Vehicles Act (for short 'M.V.Act'), Taro (deceased) was going to the fields from her house at village Sadharanpur on 16.04.2009 at about 5.00.p.m, for collecting cattle fodder. Suddenly, an unnumbered motorcycle driven by respondent no.1-Manpreet Singh @ Manu came in a rash and negligent manner from the opposite side and struck against Taro. As a result thereof, Taro received fatal injuries. The accident was witnessed by Paramjit

Kaur @ Rani wife of Rupa Singh, who was accompanying the deceased. After arranging vehicle, the injured was brought to Rajindra Hospital, Patiala, where she succumbed to the injuries received by her. Postmortem of the body of deceased was conducted by the doctors of Rajindra Hospital, Patiala. FIR was registered, in this respect.

Learned tribunal while holding that the accident in question took place due to the use of the offending vehicle. Said finding of the learned tribunal has attained finality.

Income of the deceased was assessed as ₹2000/- per month. Multiplier of 8 was applied by the learned tribunal. A sum of ₹2000/- was awarded on account of funeral expenses. Learned tribunal concluded that the claimant is entitled to a sum of ₹1,94,000/-. However, while taking note of the compromise arrived at by the claimant with Gurjant Singh, a sum of ₹40,000/- received by the claimant was deducted and the claimant was held entitled to recover a sum of ₹1,54,000/- from the respondent-Insurance Company. Learned tribunal awarded a sum of ₹1,54,000/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realisation of the amount to the claimant.

Learned counsel for the appellant submits that income of the deceased has not been assessed correctly. Moreover, multiplier of 11 instead of 8 has to be applied. Compensation under the conventional heads has not been afforded as per the Second Schedule of the M.V.Act. It is however, submitted that the appellant has no objection in case, sum of ₹40,000/- received by the claimant-appellant be deducted from the total amount. It is thus prayed that the present appeal be allowed and the compensation awarded to the claimant be enhanced.

Learned counsel for respondent no.3-Insurance Company, while refuting the above arguments, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any enhancement. Learned counsel prays for dismissal of the appeal.

I have perused the file and heard learned counsel for the parties.

There is no dispute regarding the death of Taro in a motor vehicle accident which took place on 16.04.2009 due to the use of the motorcycle in question. Taro was 55 years old at the time of the accident. It was pleaded that she was engaged in dairy farming, though no documentary evidence to that effect was led. However, it cannot be lost sight of that she was admittedly a house-wife. Keeping in view the facts and circumstances of the case, it is considered just and expedient to assess the income of the deceased to be ₹3300/- per month. Deduction of 1/ 3rd is effected. The deceased in this case was admittedly 55 years old at the time of the accident, therefore, multiplier of 11 instead of 8 is to be applied as per Second Schedule of the M.V.Act**.**

It is a settled position that while affording compensation under Section 163A of the Act, the courts are to be guided strictly by the Second Schedule to the Act. The claimant is entitled to a sum of ₹2,500/- on account of loss of estate, ₹2,000/- towards funeral expenses.

Compensation towards the claimant on account of death of Taro, is thus re-worked as under:-

1.	Total income of deceased	₹3300/- p.m
2.	Deduction of 1/ 3rd on account of personal expenses	₹3300/– (₹3300*1/3=₹1100/-) = ₹2200/-

3.	Annual dependency after applying multiplier of 11	₹2420/- x 12 x 11= ₹2,90,400/-
4.	Funeral expenses	₹2000/-
5.	Loss of estate	₹2500/-
	Total Compensation =	**₹2,94,900/-**

In view of the specific statement of the learned counsel for the appellant, sum of ₹40,000/- is ordered to be deducted. The claimant is thus entitled to ₹2,54,900/-.

Claimant shall be entitled to interest on the compensation amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say that the amount, if any, already disbursed to the claimant shall stand deducted. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimant, shall enure.

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

[LISA GILL]
Judge

08.02.2019
s.khan

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