IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 8224 of 2015

Date of Decision: 14.01.2019

Rajnath Singh and others

.......Appellants

Versus

Ashok Kumar and another

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Govind Chauhan, Advocate
for the appellants.

AVNEESH JHINGAN, J.(oral)

The award dated 12.8.2015 passed by the Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') has been assailed by the legal heirs of Buttan Singh seeking enhancement of compensation awarded under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Tribunal').

The owner of motor cycle bearing registration No. HR-05-Y-5391 (hereinafter referred to as the 'offending vehicle') and the insurer (i.e. Iffco Tokio General Insurance Company Limited) of the offending vehicle have been arrayed as respondents No. 1 and 2 respectively in the appeal.

The facts in brief are that on 1.11.2014 Buttan Singh (deceased) along with Satnam Singh was going on the offending vehicle. The same was being driven by Satnam Singh. On their way, a stray cow came in front of the motor cycle, as a result of which Satnam Singh lost his balance. Buttan Singh fell down and sustained grievous injuries and died at the spot. DDR was recorded.

A claim petition under Section 163-A of the Act was filed. The

Tribunal assessed the annual earning of the deceased as ₹ 40,000/- and ½ deduction for self-expenses was made. As the deceased was 25 years old at the time of accident, multiplier of 18 was applied. The Tribunal awarded a sum of ₹ 3,65,000/- along with interest at the rate of 9% per annum. The amount awarded included ₹ 4500/- under conventional heads. The Tribunal held the owner and insurer jointly and severally liable to pay compensation.

The only issue raised by learned counsel for the appellants is that the Tribunal erred in making ½ deduction for self-expenses instead of 1/3rd.

The contention raised by learned counsel for the appellants deserves acceptance.

In a claim petition filed under Section 163-A of the Act, the compensation is to be awarded as per the structured formula provided under Second Schedule to the Act. As per Second Schedule, 1/3rd deduction for self-expenses has to be made irrespective of the marital status and number of dependants of the deceased. The compensation is recalculated by making 1/3rd deduction for self-expenses as under:

Sr. No.	Particulars	Amount
1.	Annual income	₹ 40,000/-
2.	1/3rd deduction for self expenses	₹ 13,333/-
3.	Multiplier of 18 (26667 x18)	₹ 4,80,006/-
4.	Conventional heads Funeral expenses ₹2000/- and loss of estate ₹ 2500/-	₹ 4500/-
5.	Total	₹4,84,506/-

The award dated 12.8.2015 is modified to the extent that the amount awarded of ₹ 3,65,000/- by the Tribunal is enhanced to ₹4,84,506/-. The claimants shall be entitled to the enhanced amount alongwith interest as awarded by the Tribunal from the date of filing of the claim petition till the realization of the amount.

For the view taken, it is not deemed necessary to issue notice to the insurer of the offending vehicle at this stage. In case there is any grievance to the insurer, it would be at liberty to revive the appeal by moving an application.

The appeal is allowed accordingly.

(AVNEESH JHINGAN)
14.01.2019 **JUDGE**
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Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No