IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 7977 of 2016
Date of decision: 11.1.2019

Ratni and another

.. Appellants

v.

Ramesh Kumar and otthers

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vinod K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate for the appellants.

Ms. Monika Singh, Advocate for
Mr. Anil Kumar Gahlawat, Advocate for respondents No. 1 and 2.

Mrs. Vandana Malhotra, Advocate for respondent No. 3.

...

AVNEESH JHINGAN, J. (Oral)

The parents of Vikas (deceased) are in appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Sonipat (for short, 'the Tribunal') under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act') vide award dated 15.7.2016.

The driver of vehicle bearing registration No. HR-69B-9146 (hereinafter referred to as 'the offending vehicle), the owner and insurer (i.e., TATA AIG General Insurance Co. Ltd.) of the offending vehicle have been arrayed as respondents No. 1 to 3 respectively in the appeal.

The facts as emanating from the paper book are that on 30.5.2015, Vikas along with Pardeep was travelling in the offending vehicle. The vehicle was being driven by respondent No. 1-Dalbir Singh. When they reched near Baswan Chowk, tyre of the driver side of the offending vehicle burst, as a result, the vehicle turned turtle and the occupants received multiple injuries. Vikas was shifted to PGIMS, Rohtak, where he succumbed to the injuries. DDR No. 8 dated 30.5.2015 was reported at Police Station Baroda, District Sonipat.

The parents of the deceased filed a claim petition under Section 163-A of the Act. It was pleaded that the deceased was 19 years old at the time of accident and was earning ₹3,300/- per month. The Tribunal assessed the monthly earning of the deceased as ₹3,000/-; made ½ deduction for self-expenses and awarded a sum of ₹2,92,500/- along with interest @ 7.5% per annum. The amount awarded included ₹4,500/- under the conventional heads. The insurer was held liable to pay the compensation but was given recovery rights.

Heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellants contends that the Tribunal erred in assessing the monthly income of the deceased as ₹3,000/- and ½ deduction for self-expenses has wrongly been made.

Learned counsel for the insurer contends that the claimants failed to prove the monthly earning of the deceased and the Tribunal had rightly assessed the income as ₹3,000/- per month.

The deceased was 19 years old at the time of accident. The accident took place in May, 2015, the minimum wages in 2015 for un-skilled labourer in the State of Haryana were much more than ₹3,000/- per month, hence, it was not appropriate to assess the monthly income of the deceased as ₹3,000/-. The compensation is calculated by taking the income of the deceased as ₹3,300/- per month.

Under Section 163-A of the Act, the compensation is to be calculated as per the structured formula provided under the Second Schedule to the Act. There is no distinction in the Second Schedule with regard to married or unmarried person so far as the deduction for self-expenses is concerned. As per the Second Schedule, 1/3rd deduction for self-expenses is to be made.

In view of the aforesaid discussion, the compensation is recalculated as under:

Particulars	***Amount awarded in ₹***
Monthly income	3,300/-
1/3rd deduction for self expenses	2,200/-
Applying multiplier of '16' (2200x12x16)	4,22,400/-
Conventional heads as awarded by the Tribunal	4,500/-
Total:	4,26,900/-

The award dated 15.7.2016 is modified to the extent that amount awarded by the Tribunal to the tune of ₹2,92,500/- is enhanced to ₹4,26,900/-. The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing of the claim petition till realization of amount.

The appeal is allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

11.1.2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No