

FAO No. 1032 of 2018

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

FAO No. 1032 of 2018

Date of Decision: April 02, 2019

Sharda and another

..... Appellants(s)

Versus

Dinesh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.K. Yadav, Advocate
for the appellants.

Mr. Anoop Singh Sheoran, Advocate
for respondent nos.1 and 2.

None for respondent no.3.

LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 21.09.2017, passed by learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal) on account of death of Sandeep.

Petition under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act) was filed by the claimants, who are the parents of the deceased Sandeep, seeking compensation on account of his death in the motor vehicle accident, which took place on 09.12.2015, on account of the use of vehicle bearing registration no. HR-61C-4750.

Learned Tribunal while assessing income of the deceased to be Rs.3,300/- per month, awarded a sum of Rs.2,72,400/- as compensation, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Gross income	3,300/-
2.	Income after deducting 50% as personal living expenses	3,300 - 1,650 = 1,650/-
3.	Compensation after applying multiplier of 13	1,650 x 12 x 13 = 2,57,400/-
4.	Loss of love and affection	10,000/-
5.	Funeral expenses	5,000/-
	Total	2,72,400/-

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants submits that though there is no dispute regarding income of the deceased as assessed by the learned Tribunal, multiplier of 13 has been wrongly applied and deduction of 1/3rd instead of 1/2 should have been effected as the present are proceedings under Section 163-A of the Act. It is, however, fairly stated that compensation under the conventional heads be reworked in terms of the Second Schedule to the Act.

Learned counsel for respondents no.1 & 2, however, prays that the impugned award dated 21.09.2017 does not call for any enhancement of the compensation as the same is reasonable and just in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

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I have heard learned counsel for the parties and have gone through the record.

Finding of the learned Tribunal that death of Sandeep occurred due to the use of the truck bearing registration no. HR-61C-4750 has attained finality. There is no dispute regarding income of the deceased as assessed by learned Tribunal to be Rs.3,300/- per month. Learned counsel for respondents no.1 & 2 is unable to deny that multiplier of 16 and deduction of 1/3rd is to be applied in terms of the Second Schedule of the Act. Instead of Rs.10,000/- awarded towards loss of love and affection and Rs.5,000/- towards funeral expenses, the claimants are entitled to Rs.2,000/- on account of funeral expenses and Rs.2,500/- on account of loss of estate in terms of the Second Schedule of the Act.

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr. No.	Heads	Calculations
1.	Gross income	3,300/-
2.	Income after deducting 1/3 rd as personal living expenses	3,300 - 1,100 = 2,200/-
3.	Compensation after applying multiplier of 16	2,200 x 12 x 16 = 4,22,400/-
4.	Loss of estate	2,500/-
5.	Funeral expenses	2,000/-
	Total	4,26,900/-

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Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount, from the date of filing of the claim petition till realization. Ratio of apportionment as well as manner of disbursement of compensation amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

April 02, 2019.

Sunil

**(LISA GILL)
JUDGE**

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