

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

FAO-6690-2017(O&M)

Date of decision:-9.7.2019

Sumer Singh and another

...Appellants

Versus

Parshant and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Ms.Neha Rana, Advocate for
Mr.Abhimanyu Singh, Advocate
for the appellants.

Respondent No.1 ex-parte.

Mr.Balram Prashar, Advocate for
Mr.Jagmohan Ghuman, Advocate
for respondent No.2.

Mr.Vinod Gupta, Advocate
for respondent No.3.

H.S. MADAAN, J.

Briefly stated, facts of the case are that petitioners/claimants Sumer Singh aged about 42 years – father, Ms.Kamlesh aged about 39 years – mother of Purushottam, an unfortunate victim of road side accident had brought a claim petition under Section 163-A of the Motor Vehicles Act, 1988 against the respondents i.e. Prashant – driver, Aastha

Singh – owner and New India Insurance Company Ltd. - insurer of Hyundai Accent bearing registration No.PB-65M/4658 (hereinafter referred to as the offending vehicle).

As per version of the claimants on 29.4.2015, respondent No.1 – Prashant had come to village Dudiwala from Bangalore in the offending vehicle to deliver the same at Gurgaon; that at about 1:00 p.m., Purushottam son of claimants, Kapil son of Mahender also accompanied Parshant for Gurgaon; that when the offending vehicle in which they were travelling reached near cremation ground, then suddenly a *Neelgai* (blue bull) appeared in front of the offending vehicle, due to which respondent No.1 – Parshant lost control over the car, resultantly the car fell down in the pits; that the occupants of the car received injuries and they were taken to General Hospital, Bhiwani; that on the way, Purushottam succumbed to the injuries.

Notice of the claim petition was given to respondents, who put in appearance and contested the same. Issues on merits were framed. Parties were afforded opportunities to lead evidence.

After contest, the claim petition was allowed partly by learned Motor Accidents Claims Tribunal, Bhiwani vide award dated 26.5.2017 and compensation of Rs.3,22,000/- with interest @ 7.5 % per annum from the date of filing of claim petition till realization was awarded to the claimants in equal shares payable by respondents No.2 and 3. The liability of such respondents to pay the amount being joint and several.

The claimants felt aggrieved by the said award and have

approached this Court by way of filing an appeal seeking enhancement of compensation, notice of which was given to respondents.

I have heard learned counsel for the parties besides going through the record.

Since the claimants had filed the petition under Section 163-A of the Motor Vehicles Act, for the said reason the compensation was to be calculated as per the structured formula provided in the provision and the Tribunal could not lost sight of the said formula and awarded compensation more than arrived at by use of the formula or under any head, which is not provided in the formula/schedule. The Tribunal has taken the age of deceased to be 20 years and his avocation as a student doing work of labour simultaneously, earning Rs.2,500/- per month. Referring to second schedule of Motor Vehicles Act, multiplier of 16 was correctly applied and after deduction of 1/3rd from the income of the deceased towards his personal expenses, the compensation was calculated as Rs.3,20,000/-.

No fault can be found with approach of the Tribunal in doing so. The Tribunal has also awarded a sum of Rs.2,000/- as funeral expenses. Thus the compensation awarded is found to be just and adequate calculated in light of the structured formula provided under Section 163-A of the Motor Vehicles Act in view of second schedule and no amount can be granted towards future prospects now claimed by the appellants/claimants in the appeal. There is no reason to interfere with the award by way of acceptance of the appeal.

Therefore, finding no merit in the present appeal, the same

stands dismissed.

9.7.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No