

FAO- 5002 of 2018 (O&M)
Date of Decision: 18.10.2019

Daya Nand and another

---Appellants

versus

Satbir and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Kamaldeep Kaur, Advocate
for Mr. S.S.Jattan, Advocate
for the appellants

Rekha Mittal, J.

Mr. Vinod Chaudhri, Advocate, has caused appearance on behalf of the insurance company.

The claimants are in appeal seeking enhancement of compensation on account of death of Vikas in a motor vehicular accident that took place on 16.7.2016.

The sole submission made by counsel for the appellants is that as the deceased was 28 years old, multiplier should be 18 in place of 17.

Counsel for the insurance company, on the contrary, would argue that multiplier should be applied by taking into consideration age of parents of the deceased.

The application for compensation has been filed under Section 163-A of the Motor Vehicles Act, 1988 (in short "the Act") wherein compensation is required to be assessed on the basis of structured formula provided in the 2nd Schedule appended with the Act. Taking into

consideration provisions of the 2nd Schedule, contention raised by counsel for the insurance company is not meritorious. Even otherwise, Hon'ble the Apex Court in a series of judgments has approved applying multiplier on the basis of age of the deceased in place of age of parents of the deceased while dealing with claim under Section 166 of the Act. Taking into consideration age of the deceased coupled with provisions in the 2nd Schedule, admissible multiplier is 18. In this manner, loss of dependency is calculated at Rs. 4,80,000/- [40000 x18= 7,20,000 – 1/3rd]

Compensation allowed under conventional heads is correct and affirmed.

In view of the above, claimants shall be entitle to additional amount of Rs. 26,661/- (4,84,500- 4,57,839), payable with interest @ 7.5% from the date of petition till realization, to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

18.10.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No