IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 7674 of 2017 (O&M)
Date of Decision: 3.12.2019

Smt. Ram Kaur

...Appellant

Versus

Rajesh Kumar and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. S.S. Mor, Advocate
for the appellant.

Mrs. Sheenu Sura, Advocate,
for respondents No.3.

JAISHREE THAKUR, J.

The instant appeal has been filed seeking to challenge the award dated 10.5.2017 passed by the Motor Accident Claims Tribunal, Jhajjar, whereby a meager sum of ₹2,52,000/- has been awarded to the appellant on account of death of her son, namely Devender Kumar in the accident, which took place on 23.2.2014.

Learned counsel appearing on behalf of the appellant submits that a claim petition under Section 163-A of the Motor Vehicle Act (hereinafter referred to as **'the Act'**), was filed by the appellant seeking an award of ₹20 lakh, along with interest at the rate of 18% per annum as compensation for the death of her son Devender Kumar, who was 40 years old. It is argued that on account of the injuries received by the deceased, he was admitted to Maharaja Aggarsain Hospital, Punjabi Bagh Delhi, where he breathed his last on 28.2.2014. Thereafter, the mother of the deceased, being the sole claimant, preferred a claim petition under Section 163-A of the Motor Vehicle Act. The petition was contested by both the driver and the owner by filing a joint written statement, whereas the Insurance Company filed a separate written statement taking various pleas regarding the jurisdiction of the Tribunal to hear the matter and the claim petition being bad for non-joinder and mis-joinder of necessary parties, while also stating that respondent No.1 driver did not have a valid and effective licence to drive the light motor vehicle on the date of alleged accident. After the evidence had been adduced, the Tribunal awarded a sum of ₹2,52,000/- and fastened the liability upon the Insurance Company. Aggrieved against the compensation so awarded, the present appeal has been filed.

Mr. S.S. Mor, learned counsel appearing on behalf of the appellant, would contend that the compensation has not been allowed as per the judgment rendered by the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009**, insofar as no future prospects has been given nor has there been any assessment towards conventional heads, whereas learned counsel appearing on behalf of the respondent—Insurance Company submits that the compensation has been allowed in terms of the Second Schedule as provided under Section 163-A of the Act and no interference is called for by this Court in the instant appeal.

I have heard learned counsel for the parties and find that the Tribunal has wrongly assessed the compensation payable to the claimant in a claim petition filed under Section 163-A of the Act.

The Tribunal was bound to follow the Second Schedule as specified in Section 163-A of the Act, wherein it has been laid out that compensation payable in case of death of a person within the age group of 40 years but not exceeding 45 years a multiplier of 15 would be applied. In the instant case, the monthly income of the deceased was assessed at ₹3300/- per month and, therefore, his annual income would be (₹3300x12) ₹39,600/-, As far as deduction is to be applied, **Note** in the Second Schedule clearly provides that the amount of compensation so arrived at in the case of fatal accident claim shall be reduced by 1/3rd in consideration of the expenses which the deceased would have incurred towards maintaining himself had he been alive and, therefore, 1/3rd deduction is to be applied in the instant case. Apart from the said compensation, general damages are to be paid i.e. ₹ 2000/- on account of funeral expenses and ₹2500/- towards loss of estate. The medical expenses, if any, would be paid if supported by bills/vouchers but not exceeding ₹15,000/-. The plea of the appellant that she incurred about ₹1 lakh on medical treatment of her deceased son and they were supported by the vouchers available on the record would be of no assistance since the Second Schedule clearly specifies that medical expenses would be paid but not exceeding ₹15,000/-. Therefore, compensation payable to the appellant is re-worked and tabulated as under:-

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Devender Kumar
(ii)	Date of accident	23.2.2014
(iii)	Age of the deceased	40 years
(iv)	Monthly income of the deceased	₹ 3300/-

(v)	1/3rd of (v) above deducted towards personal expenses	(₹ 3300-₹1100) = ₹ 2200/- per month
(vi)	Compensation calculated after applying the multiplier of 15	(₹2200X12X15) = ₹ 3,96,000/-
(vii)	Funeral expenses	₹ 2000
(viii)	Medical expenses	₹ 15000
(ix)	Compensation for loss of estate	₹ 2500
Total		₹ 4,15,500

As a sequel of my discussion above, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation payable to the claimant/appellant shall be ₹ 4,15,500/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the claim petition till the date of payment.

(JAISHREE THAKUR)
3.12.2019 **JUDGE**
prem

Whether speaking/reasoned Yes
Whether reportable No