IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 685 of 2020(O&M)

Date of decision: 10.1.2020

The New India Assurance Co. Ltd. …..Appellant

VERSUS

Joginder Ram Sharma and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vinod Gupta, Advocate for the appellant.

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REKHA MITTAL, J.(Oral)

Challenge in the present appeal has been directed against award dated 15.10.2019 passed by the Motor Accidents Claims Tribunal, Chandigarh (in short 'the Tribunal') whereby compensation has been assessed on account of death of Nickhil Sharma in a motor vehicular accident that took place on 16.09.2017.

Counsel for the insurance company would inform that the appeal has been preferred to assail only quantum of compensation. It is argued that claim has been filed under Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act') but compensation has been assessed by extending benefit of addition in income for future prospects, applying multiplier and allowing conventional heads in contradiction to Second Schedule appended to Section 163-A of the Act.

The Tribunal awarded Rs.4,83,600/- detailed hereunder:-

Monthly income of the deceased	Rs.3000/-
Addition in income for future prospects	40%

Deduction for personal expenses	50%
Multiplier	18
Loss of dependency	Rs.4,53,600/-
Loss to estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-

Perusal of the award reveals that claim has been filed under Section 163-A of the Act and compensation is required to be assessed in consonance with the provisions of Second Schedule appended thereto. The plea of claimants is that deceased was earning Rs.3300/- per month by doing tuition work. There is no clear evidence on record with regard to income of the deceased. Taking a clue from the notification issued by Union Territory, Chandigarh fixing minimum wage, income of the deceased is assessed at Rs.3300/- per month. There would be no addition for future prospects but deduction for personal expenses would be 1/3rd. As the deceased was 18 years old, admissible multiplier is 16. Accordingly, loss of dependency is calculated at Rs.4,22,400/- [Rs.6,33,600/- (Rs.3300 x 12 x 16) – Rs.2,11,200/- (1/3rd deduction towards personal expenses)].

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs.4500/- detailed hereunder:-

Funeral expenses	Rs.2000/-
Loss to estate	Rs.2500/-

In view of the above, total compensation comes to Rs.4,26,900/- and compensation awarded by the Tribunal is reduced to the extent of Rs.56,700/- (Rs.4,83,600/- - Rs.4,26,900/-). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an application before the Tribunal.

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms.

Before parting with this order, it is pertinent to mention that compensation assessed by the Tribunal has been reduced without notice to the claimants. They would be at liberty to file an appropriate application if they have any grievance to express. It is further clarified that in case the claimants file an appeal for enhancement, any observation made for disposing of appeal filed by the insurance company would not cause prejudice to their right.

JANUARY 10, 2020 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no