IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.226

FAO No.5524 of 2015

Date of decision: 30.03.2022

Sarabjit Kaur and another **..Appellants**

Versus

Ninder Singh and another **..Respondents**

BEFORE: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Sushil Saini, Advocate
for the appellants.

Mr. Jagjeet Singh, Advocate for
Mr. Amit Arora, Advocate
for respondent No.1.

Mr. Rajneesh Malhotra, Advocate
for respondent No.2.

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MEENAKSHI I. MEHTA J.

Feeling dis-satisfied with the Award passed by learned MAC Tribunal, Amritsar (for short 'the Tribunal') on 03.04.2015 whereby appellant No.1-claimant has been awarded compensation to the tune of Rs.1.5 lac on account of the death of Kirandeep Kaur, the daughter of the appellants, in a motor vehicular accident, they (appellants) have preferred the instant appeal for seeking enhancement of the amount of compensation.

As per the brief factual-matrix culminating in the present appeal, both the appellants joined hands to prefer a claim petition under Section 163-A of the Motor Vehicles Act (for short 'the M.V. Act') for seeking compensation to the tune of Rs.20 lac from the respondents, on account of the death of their above-named minor daughter, while averring that she was 12 years old and was studying in VIth class. On 16.05.2014, she had gone on the bicycle to fetch drinking water from the petrol pump, located at Mehta-Amritsar road. When she reached near the said petrol pump, a car bearing registration No. PB-02-Z-0515, came from Mehta town side which was being driven by respondent No.1 in a rash and negligent manner and it (Car) hit the bicycle of their daughter and she fell down on the road and sustained multiple injuries which proved fatal for her. A criminal case was also registered regarding this accident.

Respondent No.1 was proceeded against *ex-parte* before the Tribunal and respondent No.2-Insurance Company filed its written statement contesting the claim of the appellants therein, *inter-alia,* on the grounds that respondent No1-driver was not holding any valid and effective driving licence for driving the offending Car and the structured formula, as provided in the Schedule appended to the M.V. Act, was not applicable to the case of the appellants and only a lumpsum amount could be granted as compensation, to them.

In view of the pleadings of the parties, the issues were framed by the Tribunal on 01.11.2014 and the appellants and respondent No.2 led their evidence, oral as well as documentary, in support of their respective contentions. After hearing learned counsel for both the parties, the Tribunal partly allowed the claim petition and awarded compensation of Rs.1.5 lac to appellant No.1-mother only, along-with interest @ 7.5% per annum while observing that appellant No.2-father was not entitled for any compensation on account of the death of his minor daughter and dismissed the said petition qua him.

I have heard learned counsel for the appellants as well as learned counsel for both the respondents in this appeal and have also perused the record carefully.

Learned counsel for the appellants contends that the Tribunal has awarded the compensation to appellant No.1 in lumpsum whereas the structured formula, as provided in Schedule-II appended to the MV Act for calculating the amount of compensation, was applicable to the present case and the notional annual income of the deceased was required to be assessed so as to work out the amount of compensation by applying the multiplier as prescribed in the said Schedule. He places reliance upon ***Kurvan Ansari @ Kurvan Ali and another Vs. Shyam Kishore Murmu and another 2022 (1) RCR (Civil) 165*** wherein the Apex Court has categorically observed that "*where a claim petition was filed under Section 163-A of the MV Act for seeking compensation on account of the death of a child, aged 07 years and not an earning member, the fixing of notional income at Rs.15,000/- per annum was not just and reasonable and it was a fit case to increase the notional income by taking into account the inflation, devaluation of rupee and cost of living and the notional income of the deceased was to be assessed at Rs.25,000/- per annum and multiplier of '15' was applicable as* *prescribed in Schedule II for the claims under Section 163-A of the MV Act and the appellants were also entitled to a sum of Rs.40,000/- each towards the filial consortium and Rs.15,000/- towards the funeral expenses*".

The above-cited observations are fully applicable to the appeal in hand because in the instant case also, as discussed earlier, the appellants filed the claim petition under Section 163-A of the MV Act for seeking compensation on account of the death of their minor daughter who was a student. In the light of the same, the total amount of compensation, as payable to the appellants, is calculated as under:-

	Head	**Amount**
Appellant No.1	Loss of Dependency	Rs.25,000/-x15= Rs.3,75,000/-
	Filial Consortium	Rs.40,000/-
	Funeral Expenses	Rs.15,000/-
	Total Compensation already awarded Enhanced amount	Rs.4.30,000/- Rs.1,50,000/- Rs.2,80,000/-
Appellant No.2	Loss of Dependency	Nil
	Filial Consortium	Rs.40,000/-
	Funeral Expenses	Nil
	Total	Rs.40,000/-

As a sequel to the foregoing discussion, the present appeal is allowed to the effect that appellant No.1-Sarabjit Kaur is entitled to the net enhanced compensation to tune of Rs.2.80 lac, over and above the amount of Rs.1.5 lac, as already awarded to her by the Tribunal as compensation whereas appellant No.2-Bhupinder Singh is entitled to the compensation of Rs.40,000/-, on account of death of their afore-named minor daughter, along-with interest @ 7.5% per annum from the date of institution of the claim petition till the realisation of the said amount which shall be payable by respondent No.2-Insurance Company.

30.03.2022 **(MEENAKSHI I. MEHTA)**
pooja **JUDGE**

Whether speaking/reasoned	Yes
Whether Reportable	Yes