**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**
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FAO No.3475 of 2017
Date of Decision:19.12.2022

Ram Ratti Devi and another .....**Appellant**
Vs.
Gurdev Singh and others .....**Respondents**

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Kapish Singla, Advocate for Mr. Ashit Malik, Advocate for the appellants.

Mr. Ashwani Talwar, Advocate for respondent No.3 – Insurance Company.

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DEEPAK GUPTA, J.

Appellants- claimants are parents of deceased – Ajay Kumar. They are aggrieved by award dated 16.01.2017 passed by ld. Motor Accident Claims Tribunal, Kaithal in MACT Petition bearing CNR N: HRKH01-001268-2016 titled as 'Ram Ratti Devi & Another vs. Gurdev Singh & Others', alleging inadequate compensation.

2. Brief facts are that on 09.04.2014, Ajay Kumar and respondent No.1 – Gurdev Singh were travelling on motor-cycle No.HR-08H-7129. Ajay Kumar was the pillion rider. At about 8:00 P.M., when they reached at Habri Road, all of a sudden, an unknown vehicle came from Pundri side and hit the motor-cycle. Gurdev Singh as well as Ajay fell down and received multiple injuries. They were shifted to Government Hospital, Kaithal, where Ajay Kumar was declared brought dead. FIR No.77 dated 10.04.2014 was registered at Police Station Pundri District Kaithal regarding the accident.

3. Claimants filed the petition under Section 163-A of the Motor Vehicles Act, by submitting that deceased Ajay Kumar was 18 years old stu-

dent of 10th Class, who used to help his parents in professional work of Barber and that his monthly income was ₹3,300/-.

4. Respondents No.1 and 2 did not contest the petition and were proceeded ex parte. Respondent No.3 – Insurance Company opposed the claim. After taking evidence, learned Tribunal found that accident was caused on account of user of motor-cycle No.HR-08H-7129 being driven by respondent No.1. By taking the notional income of the deceased at ₹15,000/- per annum and applying multiplier of 16, loss of dependency was worked out at ₹2,40,000/-. No deduction was made towards self expenses, as he was the non-running member. After adding ₹2,000/- towards funeral expenses and ₹2,500/- towards loss of estate, total compensation of ₹2,44,500/- was allowed.

5. It is submitted by learned counsel that multiplier of 16 has been wrongly applied by learned Tribunal as deceased was aged 18 years. Besides, notion income of an 18 year student at ₹15,000/- per annum is on quite lower side.

Learned counsel has referred to ***Kishan Gopal Vs. Lala (2014) 1 SCC 244,*** wherein annual notional income of deceased child was taken at ₹ 30,000/- per annum by Hon'ble Supreme Court. In another case titled ***Kurvan Ansari alias Kurvan Ali and Another Vs. Shyam Kishore Murmu and another (2022) 1 SCC 317***, notional income of seven year old child was taken at ₹25,000/- per annum. It is contended that in the present case, accident took place in 2014. Age of the deceased child was 18 and so, notional income should be taken at least ₹40,000/- per annum.

6. I have considered the submissions on both the sides and have perused the paper record.

7. It is conceded position that claim petition was filed under Section

163-A of the Evidence Act and so, compensation was required to be granted as per the structured formula contained in the 2nd Schedule to the Motor Vehicle Act, 1988. However, the 2nd schedule of the Motor Vehicles Act, 1988 was substituted by another schedule by way of a gazette notification bearing N: S.O. 2022(E) dated 22.05.2018 of Ministry of road transport and highways, as per which, compensation payable in case of death shall be ₹5 lacs.

8. It will not be out of place to mention that by virtue of Section 50 of the Motor Vehicles (Amendment) Act, 2019, Chapter X of the principal Act on 'Liability without fault in certain cases' consisting Sections 140 to 144 was omitted. By way of Section 51 of the Motor Vehicles (Amendment) Act, 2019, an altogether new Chapter-XI captioned as 'Insurance of Motor Vehicles against Third Party Risks' consisting Sections 145 to 164D, was substituted for earlier Chapter-XI of the principal Act, which also included Section 163A. 2nd schedule has been omitted by way of Section 93 of the Motor Vehicles (Amendment) Act, 2019. The newly substituted Section 164 of the Act provides for compensation of ₹5 lacs in case of death, which has occurred on account of user of a motor vehicle.

9. Although many provisions of Motor Vehicles (Amendment) Act 2019 became effective from 01.09.2019, but Section 50 to 57 and 93 of the Motor Vehicles (Amendment) Act 2019 have been notified by the Central Government vide gazette notification bearing N: S.O. 859 (E) dated 22.02.2022 of Ministry of road transport and highways, w.e.f. 01.04.2022.

10. Thus, Section 164 as substituted in the Motor Vehicles Act 1988, has already come into force w.e.f. 01.04.2022. There is no reason to deny the benefit of this amended provision to the claimants. Therefore, in view of amended provi-

sion as above, claimants – appellants are entitled to the compensation of ₹5 lacs on account of death of Ajay Kumar. It is held accordingly.

11. After deducting the amount of ₹2,44,500/- already awarded by the Tribunal, the enhanced compensation is held to be ₹2,55,500/-. Claimants are allowed the same along with interest @ 7.5 % per annum from the date of filing of the petition till realisation. This enhanced compensation be paid to the appellants-claimants in the same proportion as allowed by the Tribunal.

12. Appeal is disposed of accordingly.

December 19, 2022 **(DEEPAK GUPTA)**
renu **JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No