IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 2379/2015

Date of decision:8/2/2023

Reliance General Insurance Co. Limited.

………………Appellant

Vs.

Rajwinder Kaur and others

…………………Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Paras Money Goyal, Advocate for the appellant.

Mr. NK Vadhera, Advocate for respondents No. 1 to 5.

Service upon respondents 6 and 7 dispensed with vide order Dated 26.7.2016

Nidhi Gupta, J.

Present appeal has been filed by the Insurance Company against Award dated 8.1.2015 passed by the learned Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as 'the Tribunal') in MACT Case NO.66/16.11.2012 filed by the claimants/respondents 1 to 5 herein, u/s 163-A of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'), whereby a compensation of Rs.6,78,400/- was awarded to the claimants.

Learned Tribunal on the basis of pleadings and evidence led before it concluded that the deceased Amarjit Singh had died due to injuries received by him in a motor vehicular accident that took place on 23.10.2012 due to the rash and negligent driving of truck bearing registration no. MH-46-H-2847 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.7 herein, and owned by respondent no.6.

Learned counsel for the appellant Insurance company assails the Award on the ground that the claim petition was filed u/s 163-A of the Act, and under the Second Schedule of the Act, maximum compensation of Rs. 5 lacs can be awarded. It is submitted that the Ld. Tribunal is in error in awarding excessive amount of compensation by totally ignoring the Second Schedule to the Act.

It is submitted that the Tribunal was in error in making a deduction of only 1/4th towards personal expenses whereas, as per the Schedule deduction of 1/3rd towards personal expenses ought to have been made.

It is further submitted that the income of the deceased has been taken as Rs.3200/- per month which is on higher side. It is submitted that amount of Rs.40,000/- towards transportation and funeral expenses, and Rs.60,000/- under other conventional heads, is also in contravention of Schedule II as per which the total amount that can be granted under conventional heads is Rs.9500/- only. It is accordingly, submitted that the impugned Award be set aside.

In response, Ld. counsel for the respondents submits that the claimants are the widow and two minor daughters and aged parents of the deceased. It is submitted that the deceased was only about 30 years of age at the time of his death and has left behind a young family, and he was the only earning member of the family. It is therefore, prayed that the Award be maintained.

No other argument has been raised on behalf of the parties.

Heard Ld. Counsel for the parties.

No doubt, under Section 163A the Learned Tribunal is required to determine and limit the amount of compensation as specified in the Second Schedule of the Act. However, the Hon'ble Supreme Court in case of **Puttamma and others v KL Narayana Reddy and another, 2014(1) RCR (Civil) 443**, has observed as follows:

> "51. Considering the current trend of inflation cost of food grains and all other items, Mr. P.P. Malhotra, Senior Advocate, Amicus Curiae submitted that for just compensation the multiplier should be enhanced to 24-25 years. Further, according to him, while calculating the compensation, the amount payable towards dependency should be increased as the life expectancy is upto 70-75 years and secondly after 10 years of earning capacity it should be doubled in view of escalation of cost of living and progressive increase in the income.
>
> 52. Keeping in view the cost of living, the Central Government is required to amend the Second Schedule [See Section 163A (3)]. The Second Schedule was enacted by Act 54 of 1994 w.e.f. 14th November, 1994. Now more than 19 years have passed but no amendment has been made. Cost of living has gone up many fold.
>
> 53. In view of finding recorded above, we hold that Second Schedule as was enacted in 1994 has now become redundant, irrational and unworkable, due to changed scenario including the present cost of living and current rate of inflation and increased life expectancy.
>
> 54. A letter dated 5th December, 2012 issued by the Joint Secretary, Ministry of Road Transport & Highways, New Delhi has been brought to our notice by Mr. P.P. Malhotra. Giving reference to the present case therein, the officer has informed that the Motor Vehicles (Amendment) Bill, 2012, *inter alia,* to amend Section 163A of the Motor Vehicles Act, 1988 was passed by the Rajya Sabha on 8th May, 2012. The said Bill proposes to substitute Section 163A(3) of the Act by empowering the Central Government to revise the amount or the multiplier specified in the Second Schedule after every three years and furthermore, the Bill also seeks to substitute the Second Schedule so as to provide that for death of non-earning persons, a fixed compensation of L 1,00,000 for children up to 5 years of age and L 1,50,000/- for persons more than 5 years of age. It is informed

that though the Bill has been passed by the Rajya Sabha and it is still pending consideration before the Lok Sabha for its approval".

Thus, keeping in view of the above observations of the Hon'ble Supreme Court, as also in view of the facts and circumstances of the present case, in my considered opinion, the compensation awarded by the learned Tribunal is just and fair in the present case.

Dismissed.

08/02/2023 **(Nidhi Gupta)**
Joshi **Judge**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**