IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 6016/2015 (O&M)

Date of decision: 16.02.2023

Reliance General Insurance Co. Ltd.

……….Appellant.

Vs.

Satpal and others

……….Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Sanjeev Kodan,Advocate for appellant-Ins.Co.
Mr.Deepak Choudhary,Advocate for claimant/respondent no.1.
Mr. Partap Singh, Advocate for respondent no.3.

Nidhi Gupta, J.

Present appeal has been filed by the Insurance Company against the grant of compensation of Rs.2,55,724/- awarded by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') vide Award dated 12.8.2014 passed in Claim Petition no.46 filed by the claimant/ respondent no. 1 herein, u/s 163-A of the Motor Vehicles Act,1988.

Learned Tribunal on the basis of pleadings and evidence before it concluded that the claimant-Satpal/ respondent no.1 herein, had been injured in a motor vehicular accident that took place on 9.8.2011, due to rash and negligent driving of Tralla bearing registration No. HR-39B-7230 (hereinafter referred to as the 'offending vehicle') being driven by respondent no.2, owned by respondent no.3 and insured by appellant herein. The respondents no. 2 and 3 herein respectively being the driver and owner of the offending vehicle, along with appellant, were held jointly and severally liable to pay the amount of compensation.

Learned counsel for the appellant Insurance Company assails the Award and states that the claim petition was filed u/s 163-A of the Motor Vehicles Act,1988. It is submitted that as per the Second Schedule of the Act, income cannot be assessed more than Rs.40,000/- per annum. It is submitted that in the present case the learned Tribunal has assessed the income of the claimant as Rs.4000/- per month, which is in contravention of the Act. It is submitted that interest has been granted @ 7.5% per annum which is also on the higher side. It is further submitted that as per old Act in injury cases the total compensation granted cannot exceed Rs.2.50 lacs, however, in the present case total compensation of Rs.2,55,724/- has been awarded. It is submitted that in the present case the accident took place on 9.8.2011 and therefore, the provisions of the new Act will not be applicable and therefore, the claim petition is not maintainable, and the impugned Award deserves to be set aside.

In response, it is submitted by ld Counsel for the claimant that the Award is just and fair and the Appeal be dismissed.

No other argument has been raised.

Heard ld. Counsel for the parties.

Perusal of the record shows that claimant was travelling in the offending vehicle with respondent no.1 when the accident took place. As per pleaded case of the claimant himself a Bluebuck (Neelgai) came in front of the offending vehicle upon which respondent no.1 had to suddenly apply brakes to save the Bluebuck, as a result of which the offending vehicle dashed into the Kikkar tree outside the road. Further, it is not disputed that the claim petition was filed under Section 163-A of the Act.

No doubt, in a petition under Section 163A the compensation has to be determined strictly as per the structured formula as provided in the Second Schedule to the Act. It is true that the Learned Tribunal is required to determine and limit the amount of compensation as specified in the Second Schedule of the Act.

However, in this regard the following observations of the Hon'ble Supreme Court in case of **Puttamma and others v KL Narayana Reddy and another, 2014(1) RCR (Civil) 443**, are relevant:

> "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, and no sufficient ground for interference in the impugned Award is made out.

Dismissed.

Application(s),if any, also stand disposed of.

(Nidhi Gupta)
Judge

16.02.2023
Joshi

Whether speaking/reasoned Yes
Whether reportable Yes/No