

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****278****FAO-6138-2015 (O&M)****Date of Decision : 20.11.2024**

National Insurance Company Ltd

... Appellant

Versus

Paramjit Kaur & Anr

... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sudhanshu Makkar, Advocate for the appellant.

Mr. Kuldip Sanwal, Advocate for the respondent No.1.

Respondent No.2 proceeded against ex parte
vide order dated 27.01.2016.**ALKA SARIN, J. (Oral)**

1. The present appeal has been preferred by the appellant-Insurance Company challenging the award dated 04.05.2015 passed by the Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as 'Tribunal') in a claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act of 1988').

2. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being reproduced herein for the sake of brevity.

3. Learned counsel for the appellant-Insurance Company would contend that the compensation of Rs.7,00,000/- awarded by the Tribunal is on the higher side inasmuch as under Section 163-A of the 'Act of 1988', the income of the deceased could not exceed Rs.40,000/- per annum and the

Tribunal has wrongly taken the income of the deceased as Rs.6,000/- per month i.e. Rs.72,000/- per annum and hence vide the impugned award the compensation has been awarded on the higher side. He has also placed reliance upon a judgment of the Hon'ble Supreme Court in the case of **Ram Murti & Ors. Vs. Punjab State Electricity Board [2023 ACJ 631]** to contend that in such case of death, Hon'ble Supreme Court has awarded a compensation of Rs.5,00,000/-.

4. On the other hand, learned counsel for respondent No.1 states that the Tribunal has rightly awarded the compensation and there is no scope for interference with the impugned award.

5. Heard.

6. Since the claim petition pertains to Section 163-A of the Act of 1988, learned counsel for respondent No.1 does not dispute the fact that the income of the deceased under the said provision could not exceed Rs.40,000/- per annum whereas the Tribunal has assessed the income of the deceased as Rs.72,000/- per annum. Learned counsel for the respondent No.1 also does not dispute the law laid down by the Hon'ble Supreme Court in the case of **Ram Murti** (*supra*), wherein it has been held as under :

“ 7. The provisions of Section 140 which formed a part of Chapter 10 of the Motor Vehicles Act 1988 were omitted by Act 32 of 2019. Simultaneously, Chapter 11 was substituted of which Section 164 provides for payment of compensation in the case of death in the amount of Rs.5,00,000/- and in the case of grievous hurt of Rs.2,50,000/-.

8. We are inclined to give the appellants the benefit of

the beneficial provisions which have been enacted by Parliament. Hence, in modification of the order of the High Court, we direct that the appellants shall be entitled to an amount of Rs.5,00,000/- as compensation. However, if the amount of Rs.50,000 which has been awarded by the High Court has already been paid over, the balance (or the entirety of Rs.5,00,000/- if no amount has been paid) shall be paid over to the appellants by 30 November 2022.”

7. Further, vide the Motor Vehicles (Amendment) Act, 32 of 2019 Chapter X stands omitted and substituted by Chapter XI. Section 163-A falls in Chapter X of the unamended Motor Vehicles Act, 1988 and the same has now been replaced by Section 164 and in view thereof, the judgment of the Hon’ble Supreme Court in the case of **Ram Murti** (*supra*) would be fully applicable in the present case. Moreover, since the claim petition was filed under Section 163-A of the Act of 1988 there would be no question of future prospects.

8. In view of the above, the present appeal stands allowed and the impugned award is modified to the extent that the claimant-respondent No.1 would be entitled to a compensation of Rs.5,00,000/- and rest of the impugned award is upheld. Pending applications, if any, also stand disposed off.

20.11.2024
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO