(2019) 07 P&H CK 0218

In the Punjab And Haryana At Chandigarh

Case No : First Appeal Order No. 4553 Of 2019 (O&M)

Cholamandlam Ms General Insurance Company Limited — APPELLANT

Vs

Mona Devi And Others — RESPONDENT

Date of Decision : 24-07-2019

Acts Referred:
Motor Vehicles Act, 1988 — Section 163A

Citation : (2019) 07 P&H CK 0218

Hon'ble Judges : Rekha Mittal, J

Bench : Single Bench

Advocate : Punit Jain

Final Decision : Partly Allowed

Judgement

Rekha Mittal, J

Challenge in the present appeal has been directed against award dated 13.3.2019 passed by the Motor Accidents Claims Tribunal, Gurugram (in short "the Tribunal") whereby compensation has been assessed on account of death of Ram Niwas in a motor vehicular accident that took place on 17.12.2017, in an application filed under Section 163-A of the Motor Vehicles Act, 1988 (in short "the Act").

Counsel for the appellant would inform that appeal has been filed to assail only quantum of compensation assessed by the Tribunal. It is argued that the Tribunal has assessed income of the deceased at Rs. 40,000/-per annum but no deduction for personal expenses has been made in view of the provisions of 2nd Schedule appended to Section 163-A of the Act. Another submission made by counsel is that the Tribunal has allowed compensation of Rs. 70,000/- under conventional heads as against Rs. 9,500/- admissible in the light of what has been envisaged in the 2nd Schedule aforesaid.

Perusal of the award particularly findings of the Tribunal on issue no. 2 substantiates contention raised by counsel for the insurance company. The

Tribunal has assessed income of the deceased at Rs. 40,000/- per annum. There would be 1/3rd deduction for personal expenses.

The Tribunal applied multiplier of 14 but in view of the 2nd Schedule, appropriate multiplier is 15 as the deceased was more than 40 years but less than 45 years of age. Accordingly, multiplier applied by the Tribunal is modified to 15 viz-a-viz 14. In this manner, loss of dependency is calculated at Rs. 4,00,000/- [40000 x 15= 6,00,000- 2,00,000 (1/3rd)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 9500/-, detailed hereunder:-

Funeral expenses Rs. 2000/-

Loss of consortium Rs. 5000/-

Loss of estate Rs. 2500/-

Total compensation is Rs.4,09,500/- and compensation allowed by the Tribunal is reduced to the extent of Rs. 2,20,500/-(6,30,000-4,09,500).

The appeal filed by the insurance company is partly allowed in the aforesaid terms. The statutory amount of Rs. 25,000/- be remitted to the Tribunal for payment to the claimants.

Before parting with this order, it is pertinent to mention that compensation awarded by the Tribunal has been reduced without notice to the respondents. The respondents-claimants would be at liberty to file an application before this Court if they have any grievance to express. It is further clarified that any observations made hereinbefore shall not cause prejudice to the claimants if they prefer an appeal for enhancement.

