(2019) 02 P&H CK 0115

In the Punjab And Haryana At Chandigarh

Case No : First Appeal Order No. 1254 Of 2016 (O&M)

Reliance General Insurance Co. Ltd — APPELLANT

Vs

Rajinder Kaur And Others — RESPONDENT

Date of Decision : 11-02-2019

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

Citation : (2019) 02 P&H CK 0115

Hon'ble Judges : Avneesh Jhingan, J

Bench : Single Bench

Advocate : Sanjeev Kodan, B.S. Jaswal, Aarti

Final Decision : Partly Allowed

Judgement

Avneesh Jhingan, J

The award dated 12.10.2015 passed by the Motor Accident Claims Tribunal, Amritsar (for brevity 'the Tribunal') has been assailed by insurer of truck bearing registration No. PB-11-Q-6898 (hereinafter referred to as the 'offending vehicle').

The claimants have been arrayed as respondents No.1 to 4 and the owner of the offending vehicle has been arrayed as respondent No.5 in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 30.03.2012, a motor vehicular accident took place involving the offending vehicle and truck bearing registration No. RJ-13-GB-5253. The said accident proved fatal for Gursewak Singh.

A claim petition was filed under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act'). The Tribunal after considering the facts and appreciating the evidence adduced held that the offending vehicle was involved in the accident. The annual income of deceased was assessed as Rs.40,000/-; 50% future prospects were awarded; 1/4th deduction for self-expenses was made and multiplier of '16' was applied. The Tribunal awarded compensation of

Rs.7,95,000/- alongwith interest @ 9% per annum. The amount awarded included Rs.25,000/- each for funeral expenses, love and affection and loss of consortium.

The issue raised by learned counsel for the appellant in the present appeal is that the claim petition was filed under Section 163-A of the Act, he contends that the deduction has wrongly been made and the amounts awarded under the conventional heads are on higher side. His grievance is that no future prospects are to be awarded. He contends that the compensation should have been calculated as per Second Schedule of the Act.

Learned counsel for the claimants though defends the award but could not raise any serious objection with regard to the calculation of compensation as per Second Schedule of the Act.

A structured formula has been provided under the Second Schedule of the Act and it is for that strata of the society where the annual income of the deceased is less than Rs.40,000/-.

The contention raised by learned counsel for the appellant deserves acceptance.

As per Second Schedule of the Act, the deduction to be made is fixed at 1/3rd , no future prospects can be awarded. According to said Schedule of the Act Rs.2000/- are awarded for funeral expenses, Rs.2500/- for loss of estate and Rs.5000/- for loss of consortium.

In view of above, the compensation is re-calculated as under as per Second Schedule of the Act:-

Particulars

Amount (in `)

Annual income of the deceased as assessed by the

40,000/-

Tribunal

1/3rd deduction for self-expenses

13333/-

Annual Dependency

26,667/-

Applying Multiplier of '16'

4,26,672/-

Funeral Expenses

2,000/-

Loss of Estate

2,500/-

Loss of consortium

5,000/-

Total Compensation

4,36,172/-

The award dated 12.10.2015 is modified to the extent that amount of Rs. 7,95,000/- awarded by the Tribunal is reduced to Rs.4,36,172/-.

While issuing notice of motion by this Court vide order dated 04.03.2016, the amount beyond Rs.6,00,000/- was stayed.

The claimants shall be entitled to the afore-said amount alongwith interest as awarded by the Tribunal, from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the aforesaid terms.

The statutory amount deposited in the appeal shall be sent to the Tribunal for disbursement.

