
(2013) 07 P&H CK 0504
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 5657 of 2011

Shabho Bai and Others

APPELLANT

Vs

Nand Pal and Others

RESPONDENT

Date of Decision : 25-07-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A

Citation : (2013) 07 P&H CK 0504

Hon'ble Judges : Vijender Singh Malik, J

Bench : Single Bench

Advocate : Dheeraj Narula, for the Appellant; Vandana Malhotra, Advocate for Respondents No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Vijender Singh Malik, J.—This is an appeal brought by the claimants for enhancement of compensation. The claim petition brought by Shabho Bai and others under the provisions of section 163-A of the Motor Vehicles Act, 1988 (for short "the Act") has been allowed by learned Motor Accidents Claims Tribunal, Sirsa (for short "the Tribunal"). Vide award dated 25.04.2011. Learned Tribunal has awarded compensation in a sum of Rs. 4,85,200/- on the death of Darshan Singh in a road side accident that took place on 31.07.2009. Since the challenge is to the cut applied by the Tribunal in assessing the compensation, there is no necessity to notice the facts of the case.

2. Learned counsel for the appellants has submitted that there had been six claimants and in the presence of six dependent members of the deceased, the Tribunal was not justified in adopting the cut of 1/3rd.

3. On the other hand, learned counsel for respondent no. 2 has submitted that it is a case brought u/s 163-A of the Act where compensation is payable as per the structured formula and strictly under the second schedule appended to the Act.

4. Learned counsel for the appellant could not bring to the notice of the court any

decision in which, in a case brought u/s 163-A of the Act, any other cut was applied to assess compensation.

5. Section 163-A of the Act is a special provision made for payment of compensation covering cases where the rashness or negligence in driving the vehicle would not be proved. In the cases brought under this provision, the compensation has to be awarded on structured formula basis. The said formula has been there in the second schedule appended to the Act and in the same, a note has been given that from the amount mentioned as compensation in thousands, the claim has to be reduced by 1/3rd in consideration of expenses, which the victim would have incurred towards maintaining himself. Therefore, learned Tribunal has been justified in applying the cut of 1/3rd. Consequently, I do not find any ground to interfere with the impugned award. The appeal, therefore, fails and is dismissed.