(2015) 04 P&H CK 0355

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 2084 of 2000 (O&M)

State of Haryana APPELLANT

Vs

Jasbir Kaur and Others RESPONDENT

Date of Decision : 08-04-2015

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

Citation : (2015) 179 PLR 189

Hon'ble Judges : Karam Chand Puri, J

Bench : Single Bench

Advocate : Gaurav Bansal, A.A.G., for the Appellant; Vandana Sharma, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

Karam Chand Puri, J.

1. This is an appeal directed by the State against the award dated 02.02.2000, passed by Sh. B.S. Rawat, Motor Accident Claims Tribunal, Fatehabad, vide which the claim petition filed under Section 163-A of Motor Vehicles Act, 1988/1994, was accepted and the claimants-widow and two sons were allowed a sum of Rs. 796204/-. The income of the deceased was taken as Rs. 5,059/- per month. The yearly dependency was taken as Rs. 60,708/- and the multiplier of 13 was applied. By applying the multiplier of 13, the amount calculated was Rs. 7,89,204/- (60,708/- x 13). Another sum of Rs. 2,000/- was allowed in respect of funeral expenses and Rs. 5,000/- in respect of loss of consortium and in this manner a sum of Rs. 7,96,204/- was allowed. Respondent now appellant has preferred the present appeal. Learned counsel for the appellant has submitted that the claim petition has been filed under Section 163-A of the Motor Vehicles Act, 1988/1994 and the person having income of more than Rs. 40,000/- per annum are not entitled to claim compensation under the said provision. It is further contended that l/3rd amount in respect of personal expenses has not been deducted in consonance of the Section 163-A of the Motor Vehicles Act,

1988/1994.

2. Learned counsel for the claimant has submitted that claim petition can be decided by keeping the income of deceased as Rs. 40,000/- per annum.

3. I have considered the submissions made by learned counsel for both the parties and have gone through the case file as well as the record, carefully.

4. The age of the deceased has been calculated more than 46 years and less than 47 years by the Tribunal. Since, the appellant have themselves restricted the amount till Rs. 40,000/-. So, the amount of compensation can be calculated by taking the income of deceased as Rs. 40,000/- per annum, in case as per Second Schedule under Section 163A of the Motor Vehicles Act, 1988/1994, the victim is aged between 45 to 50 years and has income of Rs. 40,000/- per annum, then, the claimants are entitle to claim Rs. 4,80,000/- and out of the said amount 1/3rd has to be deducted in respect of personal expenses of deceased as per that Schedule. The learned Tribunal has committed a grave error by not deducting the l/3rd in respect of personal expenses and by taking the income of deceased as Rs. 5,059/-. Consequently, the present appeal is partly accepted. The claimants are held entitled to claim Rs. 3,20,000/- as per Schedule. The claimants are also held entitled to claim Rs. 2,000/- in respect of funeral expenses, Rs. 5,000/- in respect of loss of consortium and Rs. 2500/- in respect of loss of estate as per Schedule of Section 163-A of the Motor Vehicles Act, 1988/1994. So, in this manner, the claimants are held entitled to claim Rs. 3,29,500/- Appeal stands partly allowed, accordingly.

A copy of this order be sent to the Tribunal for compliance.

