

(2019) 04 P&H CK 0119

In the Punjab And Haryana At Chandigarh

Case No : First Appeal Order No. 1699 Of 2014 (O&M)

Sukhdev Singh @ Sukhwinder Singh And Others

APPELLANT

Vs

Mahal Singh And Others

RESPONDENT

Date of Decision : 05-04-2019

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A

Citation : (2019) 04 P&H CK 0119

Hon'ble Judges : Avneesh Jhingan, J

Bench : Single Bench

Advocate : Ishan Cooner, Jagram Singh Cooner, Hemant Aggarwal, Mayank Mathur

Final Decision : Dismissed

Judgement

Avneesh Jhingan, J

The award dated 04.07.2013 passed by the Motor Accident Claims Tribunal, Amritsar [for brevity 'the Tribunal'] has been assailed by the legal heirs of Balwinder Kaur seeking enhancement of compensation awarded under Section 163-A of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The owner, driver and insurer (i.e. M/s Oriental Insurance Company Ltd.) of TATA Sumo bearing registration No. PB-02G-0989 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

There is no dispute between the parties with regard to factum of accident. A motor vehicular accident took place on 15.12.2011. Two vehicles were involved in the accident i.e. motorcycle bearing registration No. PB-38C-1009 and offending vehicle. The accident proved fatal for Balwinder Kaur. DDR No.30, dated 15.12.2011 was recorded at Police Station Harike.

In the claim proceedings, it was pleaded that the deceased was a house wife. The Tribunal awarded compensation as per Second Schedule to the Act. She was

a non-earning member and there was nothing on record with regard to income of the surviving spouse, the Tribunal considered annual notional income of the deceased as Rs.15,000/- and multiplier of '13' was applied as the deceased was in the age group of 45-50 years. The Tribunal awarded Rs.1,84,500/- as compensation alongwith interest @ 6% per annum. The amount awarded included Rs.9,500/- under the conventional heads.

Learned counsel for the appellants contends that the compensation needs to be enhanced.

Learned counsel for the appellants is not able to make out that compensation has not been awarded in accordance with structured formula provided in the Second Schedule to the Act. He has also not been able to dispute the fact that there was nothing on record to prove the earning of the surviving spouse.

No scope for enhancement of compensation is made out.

From the perusal of the award, it is evident that calculation error was committed by the Tribunal. By applying multiplier of '13' on notional income of Rs.15,000/-, the amount comes to Rs.1,95,000/-, whereas the Tribunal mentioned it as Rs.1,75,000/-. The same is rectified and the claimants shall be entitled to Rs.1,95,000/- alongwith Rs.9,500/- under the conventional heads as awarded by the Tribunal. The claimants are held entitled to the total compensation of Rs.2,04,500/-.

However, the claimants shall be entitled to the balance compensation, as rectified by this Court, alongwith interest as awarded by the Tribunal.

The appeal is consequently dismissed.