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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-704-2018

Date of Order:-25.02.2025

Dinesh Singh

...Appellant

Versus

Vikram and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present :- Mr. Rahul Vohra, Advocate for
Mr. Aditya Jain, Advocate
for the appellant.

None for respondents No.1 and 2.

Ms. Manvi Verma, Advocate for
Mr. Ranjeesh Malhotra, Advocate
for respondent No.3.

SUVIR SEHGAL, J.(ORAL)

1. Counsel appearing for the appellant states that service of respondent No.4 be dispensed with at this stage.

2. Ordered accordingly.

3. By way of present appeal filed under the Motor Vehicles Act, 1988, (for short 'MV Act') appellant/claimant has approached this Court for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Gurugram (for short 'the Tribunal') vide its award dated 04.09.2017.

4. Facts leading to the filing of the appeal are that the claimant – injured, was travelling on the pillion of a motorcycle, which was hit on



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the rear by a rashly driven truck. Both the motorcycle riders fell on the road and sustained injuries. They were shifted to a hospital and underwent treatment. The driver of the offending truck sped away. FIR No.590 dated 22.11.2015 under Sections 279, 337, 338, IPC was registered at P.S. Kishangarh Bas, District Alwar, Rajasthan on the statement of the claimant. Claim petition was filed under Section 163-A of the MV Act, which has been partly accepted.

5. Counsel has asserted that the Tribunal awarded a compensation of Rs.2,25,000/- to the appellant, which is highly inadequate as the claimant was 35 years of age and suffered 35% permanent disability. Counsel urges that the claimant remained hospitalised from 30.07.2015 to 09.08.2015 and was operated upon for nailing tibia followed by knee amputation.

6. Counsel for respondent No.3 has, however, opposed the appeal by submitting that the appellants are not entitled to any enhancement as the claim petition was preferred by them under Section 163-A of MV Act.

7. I have heard counsel for the parties and considered their respective submissions.

8. The question that arises for consideration is as to whether the appellants are entitled to enhancement of compensation in an appeal challenging an award passed on a petition filed under Section 163-A of MV Act. In **Deepal Girishbhai Soni and others Versus United India Insurance Co. Ltd. Baroda, (2004) 5 Supreme Court Cases 385** Supreme Court has held that an award passed under Section 163-A ibid



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is in full and final settlement of the claim and a claimant cannot be permitted to pursue two remedies simultaneously. Apex Court has clarified that the claimants can opt or elect to go either for proceeding under Section 163-A or under Section 166 of MV Act but not under both the provisions. It has been observed that Section 163-A lays down a comprehensive scheme for the purpose of grant of adequate compensation to a section of the victims, who would require the amount of compensation without fighting any protracted litigation. Such an amount is final and cannot be permitted to be adjusted.

9. In view of the settled legal position, there is no merit in appeal, which is dismissed with no order as to costs.

(SUVIR SEHGAL)
JUDGE

25.02.2025

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Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No