

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

FAO No. 1446 of 2012

DATE OF DECISION : 07.11.2017

Maiman and another

.... APPELLANTS

Versus

Sahabuddin and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Ravi Jakhar, Advocate, for
Mr. Jagdish Manchanda, Advocate,
for the appellants.

Mr. Vinod Gupta, Advocate,
for respondent No.3 – Insurance Company.

* * *

AVNEESH JHINGAN, J. (Oral)

The present appeal is against the award dated 07.06.2011 passed by the Motor Accident Claims Tribunal, Nuh (for short, 'the Tribunal').

On the ill-fated day of 30.04.2010, unfortunate parents, who are appellants in the present appeal, lost their 7 years old son Fizaz Ahmad in a motor vehicular accident. He was hit by a container bearing registration No. HR-55B-0408 (for short, 'the offending vehicle'), which was being driven in a rash and negligent manner. As a result of the accident, Fizaz Ahmad lost his life.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the parents of the deceased.

The Tribunal, after considering the material before it, awarded a sum of ₹ 3,80,000/- along with interest at the rate of 6% per annum.

I have heard learned counsel for the parties and perused the paper-book.

Learned counsel for the appellants argued that no amount has been awarded for loss of love and affection; and the amount of ₹ 5,000/- awarded for funeral expenses is on lower side.

On the other hand, learned counsel for respondent No.3 – Insurance Company defended the award and resisted any enhancement.

On perusal of the award, it is evident that the notional income of the deceased was taken as ₹ 15,000/- per annum, placing reliance upon Second Schedule attached to the Act, same cannot be faulted with, as the Tribunal has relied upon a decision of the Hon'ble Apex Court in **R.K. Malik Vs. Kiran Pal**, 2009 ACJ 1924. The said view was again reiterated by the Hon'ble Apex Court in **Reshma Kumari and others Vs. Madan Mohan and another**, 2013 (9) SCC 65. Further, a sum of ₹ 75,000/- was awarded for loss of future prospects. Another sum of ₹ 75,000/- was awarded for shock and trauma to the parents of the deceased, and sum of ₹ 5,000/- was awarded for funeral expenses.

The contention raised by learned counsel for the appellants cannot be accepted. The Hon'ble Apex Court in **National Insurance**

Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017, has held there is no conventional head of love and affection, for which compensation is to be awarded. With regard to the contention that the amount awarded for funeral expenses is on lower side, it would be pertinent to note that from a perusal of the award, it is evident that under some other heads, more reasonable amount has been awarded. But the net result is that the eventual amount of compensation awarded by the Tribunal is just and reasonable.

In such circumstances, in view of the decision of the Hon'ble Apex Court in **D.M. Oriental Insurance Co. Ltd. Vs. Swapna Nayak & Ors.**, 2017 (3) SCC 598, no interference in the award of the Tribunal is called for. In the said decision, it has been held as under :-

“18. When we find that under one head, reasonable amount has been awarded and under another head, nothing has been awarded though it should have been so awarded and at the same time, we notice that eventual figure of the award of compensation payable to the claimants appears to be just and reasonable then in such eventuality, we do not consider it proper to interfere in such award in our appellate jurisdiction under Article 136 of the Constitution. In other words, if by applying the tests and guidelines, we find that overall award of compensation is just and fair, then, in our view, such award deserves to be upheld in claimants’

*favour. We find it to be so in the facts of this case
having taken note of all relevant facts and
circumstances of the case.”*

In the above referred decision, it has been held that if a reasonable amount has been awarded under one head and some less amount or no amount has been awarded under other head, then such an award is to be upheld in favour of the claimants.

Keeping in view the facts and circumstances of the case and the decisions referred above, no case is made out for enhancement of compensation in the present case.

Appeal is, accordingly, dismissed.

November 07, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes