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

**FAO-1881-2012 (O&M)
Date of decision : 16.11.2017**

Reliance General Insurance Company Ltd.

... Appellant(s)

Versus

Karan Singh and otheres

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. T.K. Joshi, Advocate
for the appellant.

Mr. Ramender Chauhan, Advocate
for respondent Nos.1 and 2.

Mr. Nitish Yadav, Advocate for
Mr. Vinod S. Bhardwaj, Advocate
for respondent No.3.

AMIT RAWAL, J. (ORAL)

The appellant-Insurance Company in appeal against the award dated 08.10.2011 passed by the Motor Accident Claims Tribunal, Bhiwani (in short 'the Tribunal'), whereby the compensation of ₹ 2,00,000/- has been awarded to the claimants on account of death of their father-Mange Ram, aged 90 years, who according to them, died in a vehicular accident occurred on 08.03.2010.

Mr. T.K. Joshi, learned counsel appearing on behalf of the appellant-Insurance Company submits that one of the sons, at the time of filing of the claim petition, was aged 62 years and another 48 years and they were not dependent upon their father, therefore, they would not be entitled

to claim the compensation, thus, the findings of the Tribunal in awarding the compensation of ₹ 2,00,000/- to both the claimants being sons are liable to be set aside. It is a settled law that the adult children are not dependent upon the father and therefore, they have not been deprived of loss of earning. He referred to the findings rendered by the learned Tribunal in para 14, which reads as under:-

"14. In the claim petition titled Karan Singh Versus Sumer Singh, the claimants are sons of Mange Ram. Karan Singh had stepped into the witness box as PW4 and has stated that the petitioners were the only legal heirs. He stated that his father was earning ₹ 10,000/- per month. He had also stated that they spent ₹ 1,50,000/- on the last rights and treatments. He stated that his father was about 90 years old. He stated that he had no evidence to show that his father was earning and he had no details about the amount spent on the treatment. He had admitted that the treatment at PGI Rohtak was free. He stated that they had purchased medicines. He stated that he had retired from the Army and was getting pension of ₹ 7,000/- per month. He stated that he was also doing agricultural work.

15. The claimant had stated that his father was 90 years old. In the post mortem report, the age of Mange Ram is recorded as 95 years. There is no evidence that he was earning any amount. The accident occurred on 08.03.2010. Mange Ram died on 15.03.2010 at PGI, Rohtak. There is no evidence to show that any medicines were purchased. The treatment in the hospital is free.'

16. The claimants are the legal heirs. One of the son has retired from the army and is getting pension. The other son is 62 years old. Both the claimants were not dependent upon their father. There is no evidence that the deceased was earning any amount. Therefore, in the case a lump sum

amount of ₹ 2,00,000/- would be appropriate. This amount would include funeral and transportation expenses and would be shared by both the claimants equally. The amount shall be paid by all the respondents jointly and severally."

thus, urges this Court for setting aside the findings of the learned Tribunal, under challenge.

Learned counsel for respondent Nos.1 and 2 submits that the award of the Tribunal cannot be tinkered with as the amount of compensation can always be moulded towards the loss of love and affection as well as loss of estate, on account of demise of their father, thus, urges this Court for dismissal of the present appeal.

Learned counsel for respondent No.3/Driver submits that since the liability has been fastened upon all the respondents, jointly and severally, therefore, he adopts the arguments of learned counsel representing the Insurance Company.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Joshi, but equally so, I cannot remain oblivious of the fact that the finding of the Tribunal awarding the compensation of ₹ 2,00,000/- to the claimants on account of loss of income of the deceased Mange Ram aged 90 years was not a correct appreciation of law as every child dear of the age, they are at, cannot be deprived of the love and affection/blessings of the adult member in the family, which are always in short supply and sought. No body has seen the God, but the blessings of elders are termed to be as blessings of a God. The guidance, advice and love and affection of the father is always welcomed and well accepted,

dehors of the age, thus, I am of the view that the compensation as awarded by the Tribunal to the tune of ₹ 2,00,000/- can be modified towards love and affection, much less, loss of estate, instead of loss of income and accordingly, the amount of compensation is ordered to be maintained.

Resultantly, the appeal is dismissed and the award is modified in the aforesaid terms.

16.11.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**