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

**FAO No. 5149 of 2012
DECIDED ON: OCTOBER 26, 2018**

OM WATI AND ANOTHER

.....APPELLANTS

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Ishan Cooner, Advocate
for the appellants.

None for respondent No.4.

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AVNEESH JHINGAN, J (ORAL)

The present appeal has been filed against the award dated 30.03.2012 passed by Motor Accidents Claims Tribunal, Ambala (for brevity 'the Tribunal').

2. The unfortunate parents, who lost their 22 years young daughter Monika in a motor vehicular accident, are in appeal for enhancement of compensation.

3. State of Haryana, General Manager, Haryana Roadways, Faridabad Depot, Faridabad (owner/controller of Bus bearing registration No. HR-38-L-7829) (herein after referred to as 'offending vehicle); driver of offending vehicle and New India Assurance Company Limited, Ambala City (insurer of offending vehicle) have been arrayed as respondents No.1 to 4 respectively in the present appeal.

4. The appeal was admitted qua respondent No.4, only.

5. The facts emanating from the record are that on 19.01.2011, Monika alongwith her cousin Raj Pal boarded the offending vehicle from Dera Bassi. The offending vehicle stopped near Puran Hotel. When Monika was alighting from the offending vehicle, the driver drove the offending vehicle, resultantly, she fell down and was run over by the offending vehicle. She died at the spot. FIR No.131, dated 19.01.2011 was registered at Police Station Parao.

6. Parents of the deceased filed a claim petition under section 163-A of Motor Vehicles Act, 1988 (for short 'the Act').

7. The Tribunal after considering the facts and appreciating the evidence adduced, awarded a compensation of ₹2,00,000/- alongwith interest @6% per annum. The Tribunal assessed the income of the deceased @ ₹3000/- per month. The age of the deceased was 22 years. The amount awarded includes ₹2,000/- for funeral expenses.

8. The present appeal has been filed for the enhancement of compensation.

9. The learned counsel for the appellants contended that the Tribunal erred in applying the multiplier of 11 while considering the age of the parents of

the deceased instead of 17, as provided under the Second Schedule to the Act. He further argued that the Tribunal erred in making ½ deduction for self expenses whereas 1/3rd deduction has to be applied as per note appended to Second Schedule to the Act. He further argued that no amount has been awarded for loss of estate.

10. The contention raised by learned counsel for the appellants deserves acceptance.

11. The Supreme Court in the case of ***Sube Singh and another vs. Shyam Singh (Dead) and others; 2018 (3) SCC 18;*** has held as under:

> *"On the basis of the finding recorded by the Tribunal and affirmed by the High Court, it is evident that the deceased was 23 years of age on the date of accident i.e 22.09.2009. He was unmarried and his parents who filed the petition for compensation were in the age group of 40 to 45 years. The High Court, relying on the decision in the case of Ashvinbhai Jayantilal Modi (supra), held that multiplier 14 will be applicable in the present case, keeping in mind the age of the parents of the deceased. The legal position, however, is no more res integra. In the case of Munna lal Jain (supra) decided by a three Judge Bench of this Court, it is held that multiplier should depend on the age of the deceased and not on the age of the dependants."*

12. In view of the decision of Supreme Court, multiplier has to be applied considering the age of the deceased and not of the parents. Hence, compensation has to be calculated by applying multiplier of 17.

13. As per note appended to Second Schedule to the Act, 1/3 deduction for self expenses is to be made and claimants are also entitled to ₹2500/- for loss of estate.

14. In view of afore-said discussion, the compensation is recalculated as under:

	Head	**Compensation awarded**
(i)	Income	₹3000/- per month
(ii)	Total Income	₹36,000/-
(iii)	Deduction of personal expenses	₹12,000/- (i.e. 1/3rd of total income)
(iv)	Multiplier	17 (as per age of deceased)
(v)	Loss of income	24000x17= ₹4,08,000/-
(vi)	Funeral expenses	₹2,000/-
(vii)	Loss of estate	₹2,500/-
	Total Compensation awarded	₹4,12,500/-

15. The award dated 30.03.2012 is modified to the extent that amount awarded of ₹2,00,000/- is enhanced to ₹4,12,500/-. The appellants shall be entitled to the enhanced amount alongwith interest @7.5% per annum from the date of filing of the claim petition till realization of amount.

16. The appeal is partly allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

OCTOBER 26, 2018
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No