

FAO No. 2606 of 2016 (O&M)

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

FAO No. 2606 of 2016 (O&M)

Date of Decision: December 11, 2019

SBI General Insurance Company

..... Appellants(s)

Versus

Ram Sumit Mehto and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rajneesh Malhotra, Advocate
for the appellant.

Mr. R.K. Agnihotri, Advocate
for respondents no.1 and 2.

LISA GILL, J.

This appeal has been filed by the insurance company seeking reduction of the compensation awarded to the claimants-respondents vide award dated 09.02.2016, passed by learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal).

The claimant-respondents no.1 & 2 had filed a petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of death of their six year old son in a motor vehicle accident, which took place on 23.12.2014, due to the rash and negligent driving of the offending vehicle bearing registration No.HR-45A-5909, by its driver.

Notional income of the deceased was assessed as Rs.30,000/- per annum and a total compensation of Rs.7,30,000/- was awarded by the learned Tribunal, which is detailed as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
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1.	Notional income	30,000/- per annum
2.	Income after applying a multiplier of 16	30000 x 16 = 4,80,000/-
3.	Loss of love and affection to claimants no.1 & 2	1,00,000/- each
4.	Funeral expenses and last rites	50,000/-
	Grand Total	Rs.7,30,000/-

Learned counsel for the insurance company submits that even as per the judgment of Hon'ble Supreme Court in *Krishan Gopal and another Versus Lala and others, 2013(4) RCR (Civil) 276*, it is only a sum of Rs.5 lakhs to which the claimants are entitled to. Excessive compensation, it is submitted, has been awarded to the claimants. It is, thus, prayed that this appeal be allowed and compensation be reduced accordingly.

Per contra, learned counsel for the claimants-respondents no.1 & 2 submits that the compensation awarded is just and reasonable. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the file.

In FAO-3964-2014, titled **Chet Ram and another v. Gautam Kumar and others**, decided on 21.09.2017, a coordinate Bench while dealing with a similar matter has assessed the notional income of a deceased student as Rs.50,000/- per annum in respect to an accident which took place in the year 2011. Specific reference was made therein to the judgment of the Hon'ble Supreme Court in the case of **Krishan Gopal and another Vs. Lala and others, 2013(4) RCR (Civil) 276**, wherein notional income of a

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ten years old child was assessed to be Rs.30,000/- per annum. Accident in the said case had occurred in the year 1992. Reference was also made to the decision of the Hon'ble Supreme Court in **Lata Wadhwa Vs. State of Bihar, 2001(4) RCR (Civil) 673**, especially with regard to the Second Schedule to Section 163A of the Act for calculating compensation in case of a victim below 15 years of age. Though, learned Tribunal may have erred in awarding the compensation towards loss of love and affection and the total compensation towards the funeral expenses, in view of the judgments as noted above, learned counsel for the appellant-insurance company is unable to deny that the total compensation if awarded to the claimants on the basis of the above said judgments shall not be less than what has been awarded by the learned Tribunal.

Keeping in view the facts and circumstances of the case, I do not find any ground what-so-ever to interfere in the impugned award and reduce the total compensation awarded to the claimants.

Appeal is accordingly dismissed with no order as to costs.

(LISA GILL)
JUDGE

December 11, 2019

Sunil

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No