

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No.4339 of 2015(O&M)

Date of Decision: December 16 , 2019.

ICICI Lombard General Insurance Company

..... APPELLANT (s)

Versus

Malwati and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Jaspreet Kaur Sonal, Advocate for
Mr. Ravinder Singh Dhull, Advocate
for the appellant.

None for the respondents-claimants.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This appeal has been filed by the Insurance company challenging award dated 05.03.2015 passed by the learned Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as, the 'Tribunal') whereby a sum of ₹6,15,000/- alongwith interest at the rate of 7.5% per annum has been awarded to the claimants as compensation on account of death of their child – Rajwati, who was eight years old at the time of the accident.

Respondents-claimants filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act') seeking

compensation on account of death of their daughter, aged 8 years, on account of the injuries received by her in a motor vehicle accident which took place on 19.05.2013 due to the rash and negligent driving of car bearing No.CH-58-T-1096 by one Chirag Sachdeva.

Learned Tribunal assessed the notional income of the deceased-child to be ₹30,000/- per annum while referring to the judgment of the Hon'ble Supreme Court in **Krishan Gopal and another v. Lala and others, 2013(4) RCR (Civil) 276**. Multiplier of 18 was applied keeping in view the age of the parents. A sum of ₹50,000/- was awarded on account of loss of love and affection, besides, ₹25,000/- towards funeral expenses.

Learned counsel for the appellant argues that excessive compensation has been awarded by the learned Tribunal as the deceased was admittedly a child of eight years old. There is no ground, whatsoever, for assessing the notional income of a child of eight years to be ₹30,000/- per annum. It is thus prayed that the compensation awarded to the claimants be reduced.

I have heard learned counsel for the appellant and have gone through the file with her able assistance.

Learned counsel for the appellant-insurance company is unable to deny that a coordinate Bench in FAO No.3964 of 2014 (**Chet Ram and another v. Gautam Kumar and others**) dated 21.09.2017 while dealing with a similar matter has assessed the notional income of a deceased student as ₹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 v. Lala and others, 2013(4) RCR (Civil) 276, wherein notional income of a ten years old child was assessed to be ₹30,000/- per annum. Accident in the said case had taken place in the year 1992. Reference was also made to the decision of the Hon'ble Supreme Court in **Lata Wadhwa v. 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.

In case the notional income of the child, in the present case, is taken to be ₹50,000/- per annum and applying a multiplier of 15 instead of 18, there is no scope for reduction in the total compensation awarded to the claimants.

Keeping in view the facts and circumstances of the case, I do not find any ground, whatsoever, to reduce the compensation awarded to the claimants by the learned Tribunal.

No other argument has been raised.

Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity in the impugned award dated 05.03.2015 passed by the learned Motor Accident Claims Tribunal, Chandigarh, which calls for interference by this Court, at the instance of the appellant-Insurance company.

Consequently, this appeal is dismissed with no order as to cost.

December 16 , 2019.
'om'

(LISA GILL)
JUDGE

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