

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

FAO No. 7804 of 2017

Date of Decision: 08.04.2019

Rahish and another

.....Appellants

Versus

Jafar Mohammed and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashish Gupta, Advocate
for the appellants.

Mr. Arjun Atri, Advocate
for respondents No. 1 and 2.

Mr. Amit Jaiswal, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.(oral)

This is an appeal against award dated 4.8.2017 passed by the Motor Accident Claims Tribunal, Mewat (hereinafter referred to as 'the Tribunal'). Unfortunate parents who lost their 9 years old child, are in appeal seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The driver of vehicle bearing registration No.HR-52-C-7540 (for short 'the offending vehicle'), owner and insurer (i.e. National Insurance Company Ltd.), have been arrayed as respondents No. 1 to 3 respectively in the appeal.

The factum of accident is not disputed amongst the parties.

A motor vehicular accident took place on 30.1.2016. The accident was result of rash and negligent driving of the offending vehicle. The accident proved fatal for Afsar. FIR No.52 dated 30.1.2016 was registered at Police Station Nuh. The Tribunal held the insurer of the offending vehicle liable to pay compensation to the claimants but was granted right to recover the same from driver and owner of the offending vehicle. The recovery rights was given as the driving licence produced was not found to be valid on the date of accident.

The Tribunal relying upon the decision of the Supreme Court in **Kishan Gopal and another Versus Lala and others 2013 (4) RCR (Civil), 276,** assessed the notional income of the deceased as ₹ 30,000/- per annum, 1/3rd deduction for self-expenses was made and multiplier of 17 was applied. The Tribunal awarded a sum of ₹ 4,65,000/- along with interest at the rate of 7% per annum. The amount awarded included ₹ 1,00,000/- for loss of love and affection and ₹ 25,000/- for burial expenses.

The grievance raised by learned counsel for the appellants is that 1/3rd deduction has erroneously been made and the amounts awarded under the conventional heads are on lower side. Per contra, learned counsel for the respondents argue that the multiplier of 17 has wrongly been applied and no amount is to be awarded for loss of love and affection.

In case of death of a child below 13 years as per the decision of the Supreme Court in **Reshma Kumari Versus Madan Mohan (2009) 13 SCC 422,** multiplier of 15 is to be applied and at the same time no deduction is to be made for self-expenses.

Even if the compensation is recalculated without making any deduction for self-expenses and applying multiplier of 15 and thereafter awarding the amount under the conventional heads as per the decision of the Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157*, there would be no scope for enhancement and the compensation amount to be awarded would approximately remain the same.

No interference is called for as there is no scope for enhancement.

The appeal is accordingly dismissed.

(AVNEESH JHINGAN)
JUDGE

08.04.2019

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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No