

F.A.O. No. 3841 of 2011 (O&M)

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

F.A.O. No. 3841 of 2011 (O&M)

Date of Decision: 26.09.2017

New India Assurance Company Limited

.....Petitioner

Versus

Sukhwinder Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vinod Gupta, Advocate
for the appellant.

Mr. Kuldip Sanwal, Advocate
for respondents No. 1 to 6.

Mr. A.S. Gill, Advocate
for respondent No. 7.

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 3.3.2011 passed by the Motor Accidents Claims Tribunal, Gurdaspur (for short 'the Tribunal').

In the present case one Balwinder Singh, aged 38 years lost his life in a motor vehicular accident on 27.9.2009. Widow, two minor children and parents of the deceased filed claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'). The Tribunal awarded a sum of Rs.18,10,000/- alongwith interest at the rate of 9% per annum.

The instant appeal has been filed by the Insurance Company challenging the quantum of compensation awarded by the Tribunal. The validity of the driving licence of Durga Parshad, the driver of the offending vehicle, was also raised. This Court vide order dated 16.2.2016 afforded an

opportunity to the appellant to verify the genuineness of the driving licence

as the driving licence on record appeared to be valid till 2018. Till date no verification report has been filed.

I have heard learned counsel for the parties and perused the paper book.

With regard to the quantum part, though there is no cross appeal or cross-objection but it appears that both the parties are aggrieved.

Learned counsel for the appellant argued that the monthly income of the deceased has been assessed by the Tribunal as Rs. 15000/- per month, which is highly excessive.

On the other hand learned counsel for the respondents-claimants argued that nothing has been awarded under the conventional head and as per the decision of Hon'ble the Apex Court in ***Asha Verman and others Vs. Maharaj Singh and others, 2015(4) SCC (Civil) 767***, the compensation should have been awarded under the conventional heads also.

At this stage, it may be noticed that though there is no cross-appeal but in welfare legislation, just and equitable compensation has to be arrived at. Both the counsel agreed that the matter should be remitted to the Tribunal to ascertain just and equitable compensation.

Accordingly, the case is remitted to the Tribunal to decide the quantum part of the compensation afresh. The Tribunal will grant three effective opportunities to the parties to support their claim.

It is clarified that the amount already paid by the Insurance Company would be subject to the decision of the remand case. Further, since the matters is being remitted, it would be appropriate that fresh verification report be submitted by the Insurance Company with regard to the driving licence of Durga Parshad, which is alleged to be valid till 2018.

In case, the owner of the offending vehicle is aggrieved of the report produced, he be given appropriate opportunity to rebut the same.

The appeal is disposed of accordingly.

The parties are directed to appear before the Court below on
27.10.2017.

26.09.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No