

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

(1)

FAO No. 1029 of 1998

Surinderjit Kaur and others

.... APPELLANTS

Versus

Harbhajan Singh and others

.... RESPONDENTS

(2)

FAO No. 26 of 1999 (O&M)

Harbhajan Singh

.... APPELLANT

Versus

Surinderjit Kaur and others

.... RESPONDENTS

DATE OF DECISION : 12.01.2018

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Dr. Aakash Singla, Advocate, for
 Mr. Ashok Singla, Advocate,
 for the appellants.

 Mr. Rishav Jain, Advocate,
 for respondent No.1.

 Mr. Ashwani Talwar and Mr. Lalit Kumar, Advocates,
 for respondent No.3 – Insurance Company.

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AVNEESH JHINGAN, J. (Oral)

Two appeals have been filed against the award dated

23.12.1997 passed by the Motor Accident Claims Tribunal, Barnala (for short, 'the Tribunal').

In an accident that occurred on 13.10.1992, Harjinder Singh, aged 27 years, lost his life. The offending vehicle in the said accident was truck bearing registration No. PB-10B-9527.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the legal heirs of Harjinder Singh. The Tribunal awarded a sum of ₹ 1,92,000/- along with interest at the rate of 12% per annum.

Aggrieved of the said award, the claimants filed FAO No. 1029 of 1998 for enhancement of compensation. The owner of the offending vehicle filed FAO No. 26 of 1999 challenging the award exonerating the Insurance Company from payment of compensation amount.

The owner in his appeal had submitted that his driving licence was in the criminal proceedings and hence, could not be produced before the Tribunal. The driving licence was produced in this court as additional evidence with the appeal. This Court, vide order dated 03.03.2011, directed the Insurance Company to make a verification of the document produced as additional evidence in appeal. More than six years have passed, but till date, the Insurance Company has not produced the verification report.

Learned counsel for the claimants, at this stage, contends that the claimants have not received even a single penny of compensation till date.

In a fight between owner of the offending vehicle and the Insurance Company regarding liability to pay the compensation amount, the poor claimants have suffered. The accident occurred in the year 1992, till today, for more than 25 years, even a single penny has not been paid to the claimants.

Accordingly, the matter is remitted back to the Tribunal to decide the issue of liability, after affording opportunity to both the parties, i.e. the owner of the offending vehicle and the Insurance Company to defend their respective cases. The Insurance Company would be provided an opportunity to produce the verification report of the driving licence produced before this court.

In order to balance the equity, the remand would be subject to the condition that the owner of the offending vehicle will furnish security to the satisfaction of the Tribunal and the Insurance Company, in the meantime, would pay the amount already awarded by the Tribunal to the claimants. It is clarified that in case of failure of the owner to furnish security, the remand proceedings will not be adjudicated and the claimants will have right to proceed with the remedies available to them for recovery of compensation. The statutory amount of ₹ 25,000/- deposited at the time of filing of the appeal would be sent to the Tribunal, so that the claimants can claim the said amount.

So far as appeal filed by the claimants for enhancement of compensation is concerned, the issue of enhancement would be decided by

the Tribunal in accordance with law. If the claimants are able to adduce evidence to prove the monthly earning of the deceased, while dealing the enhancement issue, the Tribunal would take into consideration the said evidence also.

The parties are directed to appear before the Tribunal on February 15, 2018.

The appeals are accordingly disposed of.

January 12, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes