

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

FAO-4696-2010 (O&M) with
XOBJC-139-CII-2015
Date of decision: 14.11.2018

National Insurance Company Ltd.

.... Appellant

Versus

Summi Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.R.N.Singal, Advocate
for the appellant.

Mr. M.S.Joshi, Advocate
for respondents No.1 and 2.

Service of respondent No.5 dispensed with
vide order dated 08.07.2014.

Mr. Vishal Gupta, Advocate
for respondents No.6 to 8.

Avneesh Jhingan, J.

The award dated 03.04.2010 passed by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal') has been assailed in appeal filed by National Insurance Company Ltd. i.e. the insurer of bus bearing registration No.PB-23A-9925. The claimants have also filed cross-objections for enhancement of compensation.

The brief facts of the case are that on 26.07.1999, Bhinder Singh, aged 25 years was riding a Moped bearing registration No.PB-11F-

6152. When he reached near Rohti Bridge, Nabha, his moped was hit from behind by rashly and negligently driven bus bearing registration No.PB-23A-9925 (for brevity, 'offending vehicle'). As a result of the impact, he fell down and was run over by the offending vehicle, he died at the spot. FIR No.66 dated 26.07.1999 was registered at Police Station Sadar, Nabha.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for brevity, 'the Act') was filed by the widow and minor daughter of Bhinder Singh.

The Tribunal, after considering the facts and on appreciating the evidence produced, held that the accident occurred due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹6,63,000- along with interest @ 6% per annum.

Learned counsel for the appellant argued that the driving licence held by driver of the offending vehicle at the time of the accident was not valid. He argued that as per statement of RW2 Gian Chand Clerk, Registration and Licencing Authority, Nahan, no such licence was issued by the Licencing Authority, Nahan. The grievance raised is that the said statement has not been considered by the Tribunal. He further argued that the monthly income of the deceased was assessed as ₹4500/- which is on higher side.

Learned counsel for the claimants/cross-objectors contended

that the amount awarded by the Tribunal is less. No future prospects have been awarded and the amounts awarded under the conventional heads are on the lower side.

Learned counsel for respondents No.6 to 8 i.e. the owner of the offending vehicle argued that the licence was subsequently renewed from District Transport Office (DTO), Patiala and no person has been examined from Patiala.

After hearing learned counsel for the parties, perusing the record and the relevant documents adduced by them, it is evident that the Tribunal has not considered the entire evidence for deciding the issue of liability to pay. The issue regarding validity of driving licence has various facets attached to it which is required to be decided before deciding the issue of liability.

In the facts and circumstances of the case, the matter is remitted back to the Tribunal to decide the issue of validity of driving licence afresh in accordance with law after affording opportunities to the parties to adduce evidence in support of their claim.

As the matter regarding liability to pay is being remanded and keeping in view the fact that during the pendency of the appeal, disbursement of compensation beyond 50% was stayed, it would be appropriate that issue of quantum of compensation is also decided by the Tribunal after affording opportunities to the parties to adduce evidence in support of their claim.

It is, however, clarified that the matter is being remanded only for following issues i.e. validity of driving licence and the quantum of compensation.

Parties are directed to appear before the Tribunal on 18.12.2018.

(AVNEESH JHINGAN)
JUDGE

14.11.2018
anju

1. Whether the order is speaking/reasoned: Yes

2. Whether the order is reportable : No