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

FAO No.2364 of 2012
Date of Decision: 31.10.2018

Oriental Insurance Company Ltd.

Appellant

Versus

Kuldip Kaur and others

Respondents

2.

FAO No.2365 of 2012

Oriental Insurance Company Ltd.

Appellant

Versus

Kulwinder Kaur and others

Respondents

3.

FAO No. 4670 of 2013

Kulwinder Kaur and others

Appellants

Versus

Parkash Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashwani Talwar, Advocate and
Mr. Lalit Kumar, Advocate
for the appellant.

Mr. Vikram Bali, Advocate
for the appellant in FAO No.4670 of 2013 and
for respondents No.1 to 5 in FAO No.2365 of 2012.

AVNEESH JHINGAN, J (Oral) :

The Oriental Insurance Company Ltd. i.e. insurer of Truck
bearing registration No.PB-10AF-5898 (hereinafter referred to as
'the offending vehicle') and the claimants are both in appeal against

the award dated 12.01.2012, passed by Motor Accidents Claims Tribunal, Chandigarh (for brevity 'the Tribunal').

2. In a motor vehicular accident that occurred on 10.11.2000, Sukhwinder Singh lost his life. The accident occurred due to rash and negligent driving of the offending vehicle. Two claim petitions were filed under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act'), one by the mother of deceased and other by the widow and four minor children. The Tribunal awarded a sum of ₹5,55,500/- alongwith interest @8% per annum. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

3. The insurer of the offending vehicle has filed the appeal on the ground that driver of offending vehicle was not having a valid driving licence at the time of accident, hence, insurance company is not liable to pay any amount. Alongwith the appeal, application for production of additional evidence was also moved.

4. The claimants have filed the appeal for enhancement of compensation stating that income assessed of deceased is on the lower side, no future prospects have been provided and the compensation granted under conventional heads is on the lower side.

5. To decide the issue regarding the liability to pay compensation, certain factual aspects needs to be considered and the insurer, driver and owner of the offending vehicle would need to

adduce evidence in support of their claim.

6. Considering the factual matrix and circumstances of the case, the matter is remitted back to the Tribunal, to decide the issue of liability to pay compensation afresh. The issue shall be decided after affording an opportunity to the parties to adduce evidence in support of their claim.

7. As the matter with regard to fixing of liability is being remanded, it would be appropriate that the issue with regard to the enhancement of compensation be also decided by the Tribunal by providing adequate opportunity to the parties to adduce any other evidence, if so desired.

8. It is, however, clarified that the remand would not affect the quantum of compensation already awarded.

9. The parties are directed to appear before the Tribunal on 04.12.2018.

10. Disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

October 31, 2018

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |