

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

FAO No. 7146 of 2011

DECIDED ON: OCTOBER 15, 2018

KUSUM AND OTHERS

.....APPELLANTS

VERSUS

SARTAJ & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Amit Kumar Goyal, Advocate
for the appellant.

Mr. Rajnish Malhotra, Advocate
for the respondent-Insurance Co.

AVNEESH JHINGAN, J (ORAL)

The present appeal has been filed against the award dated 22.07.2011 passed by Motor Accidents Claims Tribunal, Sonapat (for brevity 'the Tribunal').

2. In a motor vehicular accident that occurred on 11.10.2009, Harvinder Kumar, aged 60 years lost his life. The offending vehicle in the accident was an

Eicher Canter bearing registration No. UP-20-M 3874. The widow and two sons of the deceased- Harvinder Kumar filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

3. The Tribunal after considering the facts and appreciating the evidence adduced, awarded a compensation of ₹1,72,000/- alongwith interest @ 7.5% per annum. The Tribunal assessed the income of the deceased @ ₹4,000/- per month. The amount awarded includes ₹5,000/- each for loss of consortium and for funeral expenses.

4. The present appeal has been filed for the enhancement of compensation.

5. The learned counsel for the appellants contended that the Tribunal erred in ignoring the income tax returns and assessing the monthly income of the deceased as ₹4,000/-. His grievance is that nothing has been awarded on account of future prospects and the amounts awarded under the Conventional Heads are on lower side.

6. The learned counsel for the insurer of the offending vehicle argued that the claimants/appellants only provided a photocopy of receipt of income tax returns and not established earning of deceased. From the perusal of the returns the source of income of the deceased is not evident. In such circumstances, in order to decide the monthly income of deceased, further, evidence would be required to be adduced and both the parties must be provided an opportunity in this regard.

7. In the facts and circumstances of the case, the matter is remitted back to the Tribunal to decide the issue of quantum of compensation afresh after

providing opportunity to the parties to produce evidence in support of their claim.

8. Parties are directed to appear before the Tribunal on 28.11.2018. The accident is of 2009, it would be desirable that the Tribunal decide the matter expeditiously.

9. The Appeal is disposed of.

OCTOBER 15, 2018

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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned ***Yes/No***

Whether reportable ***Yes/No***