

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

FAO No. 872 of 2011

DATE OF DECISION : 16.03.2018

Smt. Phuli Devi and another

.... APPELLANTS

Versus

Jaibir Singh and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Ashok K. Sharma, Advocate,
for the appellants.

Mr. Arun Sharma, Advocate, for
Mr. T.K. Joshi, Advocate,
for respondent No.3 – Insurance Company.

* * *

AVNEESH JHINGAN, J. (Oral)

The present appeal arises from the award dated 28.09.2010 passed by the Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal').

2. On 11.07.2009, Zile Singh and Surender were going on motor cycle bearing registration No. HR-32B-2229. A rashly and negligent driven Scorpio bearing registration No. HR-21D-5600 (for short, 'the offending vehicle') hit the motor cycle from behind, as a result of injuries suffered in the accident, Zile Singh lost his life.

3. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the legal heirs of the deceased. It was

proved before the Tribunal that the deceased was 55 years of age and was having salary of ₹ 19,868/- per month. The Tribunal awarded a lump sum amount of ₹ 1,00,000/-.

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

5. The grievances of the appellants are that the compensation has not been awarded by applying multiplier method, future prospects have not been awarded and no amount has been awarded under the conventional heads.

6. Learned counsel for the insurer argued that the appellants have been duly compensated, as the widow would be getting full salary till the date of retirement of the deceased.

7. The fact that the widow would be getting full salary of the deceased itself cannot be a ground for not awarding compensation. In case reported as **Reliance General Insurance Co. Ltd. Vs. Shashi Sharma and others, 2016 (12) JT 409**, where the deceased was governed by the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (for short, 'the Haryana Compassionate Rules'), the Supreme Court held that from the compensation awarded, the amount received under the Rules is to be deducted. In the present case, it has not come on record, either before the Tribunal or before this Court, whether the deceased was governed by the Haryana Compassionate Rules or some other Rules.

8. Without expressing any opinion on the merits of the case, the matter is remitted back to the Tribunal to calculate the compensation in accordance with law.

9. Both the parties are directed to appear before the Tribunal on April 23, 2018.

10. Appeal is disposed of in the aforesaid terms.

March 16, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No