

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A. O. No. 5376 of 2012 (O&M)

Date of Decision: 23.10.2018

Bhani Devi and others

.....Appellants

Versus

Bhanwar Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajesh Sheoran, Advocate
for the appellants.

Mr. Vishal Aggarwal, Advocate
for respondent No.3-Insurance company.

AVNEESH JHINGAN, J.(oral)

The claimants are in appeal against the award dated 30.03.2012 passed by the Motor Accident Claims Tribunal, Bhiwani, (for short 'the Tribunal').

2. Bahadur Singh @ Bhadar, (wrongly mentioned as Bhanwar Singh in Tribunal's award) aged 59 years, lost his life in a motor vehicular accident that occurred on 04.01.2010. He was working as a Beldar in the Irrigation Department.

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. The Tribunal after considering the fact that the deceased was to retire within two months or so and the family would be covered by '*The Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules 2006* (for brevity 'the Rules')', has taken monthly income of the deceased as Rs.5000/- instead of salary being received by the

deceased.

4. Grievance of the appellant in the present case is that just and equitable compensation has not been awarded, the award is not in consonance with the decision of the Supreme Court in **Reliance General Insurance Company Ltd. Versus Shashi Sharma and others** 2016 (12) JT 409.

5. Learned counsel for the insurer of the offending vehicle contended that the claimants are not entitled to any compensation, as they would be getting the salary last drawn of the deceased. The award passed by the Tribunal cannot be sustained in view of the decision of the Supreme Court in **Shashi Sharma's case** (supra).

6. Certain factual aspects has to be considered for which evidence need to be adduced by both the parties.

7. Keeping in view the facts and circumstances of the case, the matter is remanded back to the Tribunal to decide the same afresh in accordance with law after providing opportunity to all the parties for adducing evidence in support of their claim.

8. The parties are directed to appear before the Tribunal on 20.11.2018.

9. The appeal stands disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

23.10.2018
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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No