

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

FAO No.4110 of 2013 (O&M)

Date of decision: 30.04.2018

Monika Devi and others

.... Appellants

Versus

Balkesh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.J.P.Sharma, Advocate
for the appellants.

Mr. R.C.Gupta, Advocate for
Mr. M.B.Jain, Advocate
for respondent No.3-Insurance Company,

Avneesh Jhingan, J.

The present appeal has arisen from the award dated 25.01.2013 passed by Motor Accidents Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal').

Jai Singh met with a motor vehicular accident on 21.10.2011. He was going on his bicycle from Comfort Engineering Office to company's Project situated at Nippon Steel. He was hit by a rashly and negligently driven Xylo bearing registration No.RJ-02TA-0700 (for short, 'the offending vehicle'). As a result of the accident, he sustained injuries and died at the spot. FIR No.278 dated 21.10.2011 was registered at Police Station Neemrana.

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 awarded a sum of Rs.8,12,072/- as compensation along with interest @ 7.5% per annum.

The present appeal has been filed for enhancement of compensation.

The contentions raised are that no future prospects have been added and the amounts awarded under conventional heads are on the lower side.

Learned counsel for the Insurance Company argued that the deceased was registered under the Employees' State Insurance Act, 1948 (for short, 'the Act') and in that case, the compensation has to be calculated taking into consideration Section 53 of the Act. He relies upon the decision of the Supreme Court in case of **National Insurance Company Ltd. vs. Hamida Khatoon and ors., 2009(13) SCC 361.**

Without expressing any opinion on the merits of the case, the matter is remitted back to the Tribunal to decide the issue of enhancement after taking into consideration Section 53 of the Act.

Parties are directed to appear before the Tribunal on 31.05.2018.

The appeal is disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

30.04.2018
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1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No