

FAO No. 2377 of 2016
DECIDED ON: NOVEMBER 20, 2018

.....APPELLANTS

.....RESPONDENTS

3. With the consent of learned counsel for the parties, the matter on its merits, is taken up today itself.

4. This appeal has been filed by the legal heirs of Mukhtiar Chand (deceased) against the award dated 06.02.2015 passed by the Motor Accident Claims Tribunal, Rupnagar (for short 'the Tribunal') seeking enhancement of compensation.

5. The brief facts necessary for adjudication of present appeal are that a motor vehicular accident took place on 02.05.2014. The offending vehicle in the said accident was a truck bearing registration No. PB-02-BG-9935. The accident was caused due to rash and negligently driving of offending vehicle.

6. In the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act'), the Tribunal awarded a sum of ₹15,99,000/- alongwith interest @6% per annum. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

7. Heard learned counsel for the parties and perused the paper book.

8. Learned counsel for the appellants *inter-alia* contended that the Tribunal has not considered the fact that the pension received by the deceased was reduced after his death.

9. Learned counsel for the insurer contended that no evidence was produced before the Tribunal to prove that the pension received by the deceased was reduced after his death.

10. Learned counsel for the appellants rebutted the aforesaid contention of learned counsel for the insurer, stating that Ex.P4 i.e pension book was produced before the Tribunal to *prima-facie* establish that Family Pension was much less than the pension of the deceased.

11. Keeping in view the facts and circumstances of the case, certain factual aspects need to be considered for deciding the monthly earning of the deceased for which evidence needs to be adduced. The matter only with regard to quantum of compensation, is remitted back to the Tribunal to decide the said issue afresh after affording an opportunity to the appellants, driver, owner and insurer of offending vehicle to produce necessary evidence.

12. Parties are directed to appear before the Tribunal on 20.12.2018.

13. It is, however, clarified that the remanding of matter with regard to the quantum of compensation, shall not affect the amount already awarded to the claimants/appellants.

NOVEMBER 20, 2018
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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>