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

**FAO No.6228 of 2016 (O&M)
Date of Decision: 21.11.2018**

Pinki and others

Appellants

Versus

Jai Parkash and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Bhoop Singh, Advocate
for the appellants.

Mr. Yogesh Saini, Advocate
for respondents No.1 and 2.

Ms. Anamika Mehra, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral):

This is an appeal against award dated 10.12.2015 passed by the Motor Accident Claims Tribunal, Sonipat [for brevity 'the Tribunal'], amended vide order dated 10.05.2016.

The legal heirs of Priyavart are in appeal seeking enhancement of compensation. The driver of tractor bearing registration No. HR-60A-8430 [hereinafter referred to as 'offending vehicle']; owner of offending vehicle and insurer of offending vehicle i.e. New India Assurance Co. Ltd. have been arrayed as respondents No.1 to 3 in the appeal. Father of the deceased has been arrayed

as proforma respondent in the appeal.

The brief facts necessary for adjudication of the present appeal and application are that a motor vehicular accident took place on 08.01.2015. Priyavart lost his life in the said accident. The accident was caused due to rash and negligent driving of the offending vehicle. FIR No. 20, dated 09.01.2015 was registered. A claim petition under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'] was filed. The Tribunal after considering the facts and appreciating the evidence adduced, held that accident occurred due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of Rs. 12,05,000/- alongwith interest @ 7.5% per annum. The Tribunal assessed monthly income of the deceased as Rs.8,000/- on estimate basis.

Alongwith the appeal, appellants have filed an application under Order XLI Rule 27 of Code of Civil Procedure, 1908. By way of additional evidence, Form-J and a certificate issued by Cooperative Sugar Mill, Sonipat has been produced.

Learned counsel for the appellants, inter-alia, contended that the Tribunal erred in assessing the monthly income of the deceased, on estimate basis. The grievance raised by learned counsel for the appellant is that amount awarded as compensation is on the lower side.

Learned counsel for the insurer argued that Form-J and

certificate have been produced for the first time in the present appeal and in case they are to be considered, an adequate opportunity should be provided to the respondents to verify and to rebut the evidence produced.

Keeping in view the facts and circumstances of the case, certain factual aspects needs to be considered before assessing the monthly income of the deceased.

The matter with regard to quantum of compensation is remitted back to the Tribunal to decide the issue afresh in accordance with law after providing an opportunity to the parties concerned to adduce evidence in support of their claim.

Parties are directed to appear before the Tribunal on 20.12.2018.

The copies of the additional evidence adduced alongwith application be sent to the Tribunal.

[AVNEESH JHINGAN]
JUDGE

November 21, 2018

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |