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

**FAO No.622 of 2018 (O&M)
Date of Decision: 06.12.2018**

Lata Rani and others

Appellants

Versus

Gurpreet Singh @ Guri and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Naveen Mandhan, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 15.04.2017 passed by the Motor Accident Claims Tribunal, Ludhiana [for brevity 'the Tribunal'] has been assailed by the legal heirs of Jagdish Kumar (deceased) for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The facts, in brief, are that a motor vehicular accident took place on 29.01.2016. The vehicles involved in the accident were Honda Activa bearing registration No.PB-10ED-6856 and truck bearing registration No. PB-10DC-8755 [hereinafter referred to as 'offending vehicle']. Accident was caused due to rash and negligent driving of the offending vehicle. As a result of the accident, Jagdish Kumar lost his life. FIR No.32, dated 29.01.2016 was registered at Police Station City Khanna.

A claim petition under Section 166 of the Act was filed. The

Tribunal, after considering the facts and appreciating the evidence adduced, held that accident was caused 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 ₹9,67,000/- alongwith interest @ 6% per annum. The said amount included ₹1,00,000/- awarded for loss of consortium, ₹25,000/- for funeral expenses and ₹50,000/- was awarded for loss of love and affection.

In the claim petition, it was pleaded that the deceased was working as Supervisor in S.N.H. Steels and was earning ₹13,000/- per month. His salary certificate was produced as Ex.P1. Khushwinder Singh, Manager of S.N.H. Steels appeared as PW3, who produced ledger account statement as Ex.P4. The said evidence was not relied upon by the Tribunal for various reasons, for example, that Khushwinder Singh had not produced his Identity Card and ledger account statement was not attested by the accountant etc. The income of the deceased was assessed as ₹9,000/- per month; 1/3rd deduction for self expenses was made and multiplier of '11' was applied.

Learned counsel for the appellants contends that the Tribunal erred in assessing monthly income of the deceased as ₹9,000/- especially keeping in view the fact that not only the salary certificate but other evidences were also adduced before the Tribunal. His grievance is that no future prospects have been awarded and amounts awarded under the conventional heads are on the lower side.

Learned counsel for the insurer argues that no amount can be awarded for loss of love & affection. He further defends the

assessment of monthly income of the deceased by the Tribunal stating that no reliable proofs were produced by the claimants.

Keeping in view the facts and pleadings with regard to occupation and salary of the deceased which were made in the claim petition, which were supported by a salary certificate and deposition of Khushwinder Singh as well as a ledger account statement (Ex.P4), it would not be appropriate to equate the deceased with an un-skilled labourer. Therefore, an opportunity is granted to the claimants to produce further evidence to establish the occupation and monthly earning of the deceased.

The matter with regard to quantum of compensation is remitted back to the Tribunal. The Tribunal shall decide the quantum of compensation afresh after affording an opportunity to the parties to adduce fresh evidence, if so desired.

It is, however, clarified that remand with regard to compensation shall not affect the amount already awarded by the Tribunal.

The parties are directed to appear before the Tribunal on 17.01.2019.

[AVNEESH JHINGAN]
JUDGE

December 06th, 2018

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