

In the High Court of Punjab and Haryana at Chandigarh

**FAO-3599-2013 (O&M) and
XOBJC-261-CII-2016
Date of Decision: February 04, 2019**

Satbir Singh and another

... Appellants

Versus

The IFFCO Tokia General Insurance Co. Ltd. and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Surinder Gaur, Advocate,
for the appellants.

Mr. Ajay Singla, Advocate,
for respondent No.1.

Mr. Jagdish Manchanda, Advocate,
for respondents No.2 and 3 / Cross-Objectors.

Avneesh Jhingan, J. (Oral)

The award dated 15.01.2013 passed by the Motor Accident Claims Tribunal, Rohtak (for short “Tribunal”) has been assailed by the claimants seeking enhancement of compensation awarded under Section 166 of the Motor Vehicle Act, 1988 (for short “Act”). It is pertinent to mention here that in the title of claim petition before the Tribunal, it has wrongly been mentioned as Section 163-A instead of Section 166.

The owner and driver of truck bearing registration No. HR-04N-1123 (hereinafter referred to as the “offending vehicle”) filed cross-objections challenging the recovery rights granted to the Insurance Company.

The brief facts of the case are that a motor vehicular accident was took place on 30.05.2011. The accident was caused due to rash and negligent driving of the offending vehicle. The accident proved fatal for Ashok Kumar. FIR was registered.

In a claim petition filed by the claimants, the monthly income of the deceased was assessed as Rs. 4000/-; ½ deduction was made for self expenses and a multiplier of 14 was applied. The Tribunal awarded a sum of Rs. 3,46,000/- along with interest at the rate of 7.5 % per annum.

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

Learned counsel for the appellants contended that deceased was student of B.A. Final year and his income assessed by the Tribunal is less than the minimum wages fixed by the State; no future prospects have been awarded; the multiplier have been wrongly applied by the Tribunal relying upon the age of the parents and that the amount awarded under the conventional heads is on the lower side.

Learned counsel for the cross-objectors contended that the owner of the offending vehicle had the fitness certificate which is annexed with the cross objections and the driver was having a valid driving license at the time of accident. He stated that the said documents could not be produced before the Tribunal and if the driving license and fitness certificate is verified, the liability to pay would be of the insurance company as the vehicle was duly insured.

Learned counsel for the insurance company contended that no driving license or fitness certificate was produced before the Tribunal. It is

for the first time that the stand is being taken in the appeal and opportunity be provided to the insurer to rebut and to verify the documents in case the same are taken into consideration.

Without expressing any opinion on the merits of the case, the matter is remitted back to the Tribunal to decide the issue of liability to pay and quantum of compensation afresh after affording opportunity to the parties to adduce the evidence, if so desire in support of their claim. The insurer would be at liberty to verify and to rebut the documents produced. It is further made clear that all the legal objections available to the insurer are left open to be taken before the Tribunal.

As the accident took place on 30.05.2011, the Tribunal shall decide the matter expeditiously, as early as possible. The Cross-objectors i.e. driver and insurer shall be provided only three effective opportunities to produce the relevant documents and to lead their evidence. In case, the issue of liability is delayed for want of verification etc. to be done by the Insurance, the quantum of compensation shall be decided in the meanwhile in accordance with law.

Parties are directed to appear before the Tribunal on 27.03.2019.

Instant appeal as well as cross-objections are disposed of accordingly.

February 04, 2019
vkd

(Avneesh Jhingan)
Judge

Whether reasoned / speaking : Yes / No
Whether reportable : Yes / No