

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

**FAO-4784-2014 (O&M)
Date of Decision : 30.10.2019**

Smt. Sunita Sahni and others Appellants
Versus

Anoop Gupta and another Respondents

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. Vivek Suri, Advocate
for the appellants.

Mr. Rohan Jain, Advocate
for respondent No.1.

Ms. Vandana Malhotra, Advocate
for respondent No.2.

RAMENDRA JAIN, J. (Oral)

Through this appeal, the claimants have sought enhancement of compensation, modifying impugned award dated 08.11.2013 of the Motor Accident Claims Tribunal, Rohtak (for short 'the Tribunal').

Briefly, on 08.10.2011, Harish Kumar son of Atma Ram aged about 42 years, while travelling in a car bearing registration No.HR-12N-8962 from Rohtak to Shimla, met with a motor vehicle accident and died. Resultantly, his widow and legal heirs filed a claim petition under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.20,00,000/- for his death, before the learned Tribunal at Rohtak, who after holding trial awarded a sum of Rs.7,70,000/- but deducted 50% of the same towards alleged contributory negligence of deceased Mohit, driver of the offending car. Thus, the appellants were awarded total compensation of Rs.3,85,000/-

alongwith interest at the rate of 6% per annum from the date of filing of claim petition by the appellants till realization.

Learned counsel for appellants *inter alia* contends that the Tribunal failed to appreciate that deceased Harish Kumar only being a traveller and not a driver of the aforesaid car could not have been held guilty for contributing in causing the accident.

Learned counsel for Insurance Company has not been able to refute the above submissions.

Thus, agreeing with the contentions raised by learned counsel for appellants and calculations Mark 'A' submitted by him, appellants are held entitled to compensation of Rs.4,16,272/- more, over and above the amount of Rs.3,85,000 /- already awarded by the learned Tribunal, vide Award impugned herein. Respondent No. 2-Insurance Company, through its counsel is directed to deposit the aforesaid enhanced amount of compensation before the learned Tribunal within one month from today, along with up-to-date interest @ 7.5% per annum from the date of filing of claim petition till realization, for onward disbursement to the appellant-claimants, in proportion so arrived at by it, in accordance with law against proper receipt and identification.

In case aforesaid enhanced amount is not deposited within stipulated time, Insurance Company would be liable to pay the same with interest @15% per annum from the date of expiry of one month.

Disposed of.

(RAMENDRA JAIN)
JUDGE

31.10.2019
mamta

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No

