

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

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Date of decision: 05.02.2019

FAO No.2224 of 2016 (O&M)

Smt. Sunita and others

... Appellants

Versus

Yatin Yadav and others

... Respondents

FAO No.2910 of 2016 (O&M)

Smt. Surekha and others

... Appellants

Versus

Yatin Yadav and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Arvind K. Yadav, Advocate for the appellants.
Mr. Rajneesh Malhotra, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.2224 and 2910 of 2016 as these have emerged out of the same award dated 18.11.2015 passed by the Motor Accidents Claims Tribunal, Gurgaon whereby compensation has been assessed on account of deaths of Bhagirath and Amit Kumar in a motor vehicular accident that took place on 12.12.2014.

FAO No.2224 of 2016 has been filed by Smt. Sunita and others seeking enhancement of compensation whereas the other appeal has been preferred by the claimants for the same relief. For facility of reference, facts are taken from FAO No.2224 of 2016.

Counsel for the appellants would argue that the Tribunal has assessed income of the deceased at Rs.5000/- per month as it refused to rely upon salary slips Exs.P6 & P7, in absence of appointment letter and attendance register. It is further submitted that claimants have filed application under Order 41 Rule 27 CPC for permission to lead additional evidence to prove service record and attendance register Annexures A1 & A2 (colly). He would pray that findings of the Tribunal in regard to assessment of compensation may be set aside and the matter be remitted to the Tribunal to decide the question of assessment of compensation afresh on the basis of materials already on record and additional evidence to be adduced by the claimants on the basis of application filed under Order 41 Rule 27 CPC.

Counsel for the insurance company has got no objection.

Taking into consideration the legislative intent behind the provisions of Section 166 of the Motor Vehicles Act, 1988 that the Tribunal has an obligation to assess just and reasonable compensation coupled with no objection made by the insurance company if the matter is remitted to the Tribunal for assessment afresh, the present appeals stand disposed of. The assessment of compensation made by the Tribunal is set aside and the matter is remitted to the Tribunal for making assessment afresh on the basis of materials already on record and additional evidence to be adduced by the claimants plus the evidence in rebuttal, if any, to be led by the insurance company. The parties through their counsel are directed to appear before the Tribunal on 26.02.2019. The Tribunal shall complete assessment of compensation within three months of the parties putting in appearance. In the meanwhile, the insurance company shall not recover the compensation already paid to the claimants.

05.02.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No