

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

Date of Decision: 26.02.2019

(1) FAO No. 3485 of 2015

Ankit Kumar and others

.....Appellants

Versus

Rajpal and another

.....Respondents

(2) FAO No. 1915 of 2015

The Oriental Insurance Company Limited

.....Appellants

Versus

Ankit Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Karan Singh, Advocate
for the appellant in FAO No. 3485 of 2015 and
for respondent No.1 to 3 in FAO No. 1915 of 2015

Mr. D.P. Gupta, Advocate
for the appellant in FAO No. 1915 of 2015 and
for respondent No.2 in FAO No. 3485 of 2015.

AVNEESH JHINGAN, J.(oral)

The award dated 23.1.2015 passed by the Motor Accidents Claims Tribunal, Yamunanagar at Jagadhri, has been assailed by filing two appeals. One appeal is by the insurer of truck bearing registration No.HR58-A-0187 (hereinafter referred to as 'the offending vehicle') and another appeal by the legal heirs of Smt. Jigyasa, i.e.,claimants.

The issue raised in the appeal filed by the insurer is that the deceased was a Haryana Government employee and was covered under the

'The Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules 2006 (for brevity 'the Rules') but no deduction has been made by the Tribunal of the amount of financial assistance provided under the Rules. Reliance is placed upon the decision of Supreme Court in ***Reliance General Insurance Company Ltd. Versus Shashi Sharma and others***, 2016 (12) JT 409.

In the appeal filed by the claimants the grievance is that no future prospects have been awarded and the compensation under conventional head was not awarded as per the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others*** (2017) AIR (SC) 5157.

The facts have not been disputed by the parties that a motor vehicular accident took place on 6.7.2013 which proved fatal for Smt. Jigyasa Devi, aged 51 years. She was a Haryana Government Employee and was working as a Teacher. The accident was caused due to rash and negligent driving of the offending vehicle. The owner, driver and insurer were held jointly and severally liable to pay compensation. The salary of the deceased was proved as ₹ 36,163/-; 1/3rd deduction for self-expenses was made and multiplier of 11 was applied. The Tribunal awarded a sum of ₹ 31,87,344/- along with interest at the rate of 7.5% per annum. The amount awarded included ₹ 5000/- for funeral expenses.

Supreme Court in **Shashi Sharma's case (supra)** has held that the amount received under the Rules has to be deducted from the compensation awarded under Section 166 of the Motor Vehicles Act, 1988, (for short 'the Act').

In order to decide the said issue, certain factual aspect need to be

proved. The matter is remitted back to the Tribunal to decide the issue of

quantum afresh with regard to deduction to be made as per the Rules. The Tribunal will decide the issue of deduction and shall also award the future prospects and amounts under conventional heads as per the decision of the Supreme Court.

The claimants and insurer are directed to appear before the Tribunal on 10.4.2019.

Disposed of accordingly.

26.02.2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable:	No