

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

**FAO No.3248 of 2016 (O&M) with
XOBJC No.114-CII of 2017
Date of Decision: 14.05.2019**

National Insurance Company Ltd.

Appellant

Versus

Meena Devi and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajneesh Malhotra, Advocate
for the appellants.

Mr. Vikas Chaudhary, Advocate
for respondents No.1 to 3.

Mr. Naveen Thakur, Advocate
for respondents No.5 and 6.

AVNEESH JHINGAN, J (Oral):

The award dated 11.01.2016 passed by the Motor Accident Claims Tribunal, Karnal [for brevity 'the Tribunal'] has been assailed by insurer of Mahindra Pick-up bearing temporary registration No. HR-99 NX Temp. 8883 and registration No. HR-45B-2789 [hereinafter referred to as 'offending vehicle']. The claimants have filed the cross-objections seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act,

1988 [for brevity 'the Act'].

The two-fold grievance raised by the insurer of the offending vehicle is :

- firstly, that the driver of the offending vehicle was having a Driving Licence authorizing him to drive Light Motor Vehicle but no endorsement was there for Transport Vehicle; and
- secondly, that quantum of compensation is on the higher side.

The factum of accident has not been disputed by the parties. A motor vehicular accident took place on 02.07.2013. The accident proved fatal for Anil Kumar. The accident was result of 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.

In the claim proceedings, it was pleaded that the deceased was an agriculturist, he had taken land on lease, certain J-Forms were also produced to establish sale of agricultural produce. The Tribunal assessed monthly income of the deceased as ₹15,000/-; 30% future prospects were awarded and 1/4th deduction for self-expenses was made. The Tribunal awarded compensation of ₹27,45,000/- alongwith interest @ 9% per annum. The amount awarded included ₹1,00,000/- for loss of consortium; ₹1,00,000/- for loss of love and affection and ₹25,000/- for funeral expenses.

Heard learned counsel for the parties and perused the record.

Learned counsel for the insurer contends that the driver of the offending vehicle was having Driving Licence for Light Motor Vehicle [for short 'LMV'], he was driving Mahindra Pick-up i.e. LMV Transport Vehicle, there was no endorsement on the Driving Licence for transport vehicle.

The issue raised has already been decided by this Court on 15.03.2019 in connected appeal i.e. FAO No.3237 of 2016 arising from the same award. The appeal of the insurer on the said ground was dismissed. In view of that decision, the issue stands decided against the appellant.

As regard quantum of compensation, learned counsel for the insurer argues that J-Forms produced before the Tribunal were showing sale of Paddy after the death of the deceased and were in the name of widow. The grievance is with regard to income assessed. He further argues that 30% future prospects have wrongly been awarded instead of 25% and amounts awarded under the conventional heads are on the higher side.

Learned counsel for the claimants contends that apart from J-Forms, a *Pattanama* was produced to show that land was taken on lease, the challenge is to the income assessed being on the lower side.

Before dealing with the quantum of compensation, it would be necessary to decide occupation and earning of the deceased. From perusal of the record, it is forthcoming that the

In order to balance the equities, the matter with regard to quantum of compensation is remitted back to the Tribunal to be decided afresh after affording opportunity to the claimants and insurer to adduce fresh evidence in support of their claims.

The appeal and cross-objection are disposed of accordingly.

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I attest to the accuracy and
authenticity of this document
HIGH COURT, CHANDIGARH