226(1/2)

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

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1. FAO No.3599 of 2017
Date of Decision: 27.02.2019

SHRIRAM General Insurance Company Ltd.

Appellant

Versus

Chetan Kaur and others

Respondents

2. FAO No.3211 of 2017

Chetan Kaur and others

Appellants

Versus

Ram Chander and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. M.B. Jain, Advocate for
Mr. Punit Jain, Advocate
for the appellant [in FAO No. 3599 of 2017]
for respondent No.3 [in FAO No.3211 of 2017].

Ms. Aashna Gill, Advocate
for the appellants [in FAO No.3211 of 2017]
for respondents No.1 to 4 [in FAO No.3599 of 2017].

None for respondents No.5 and 6
[in FAO No.3599 of 2017].

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AVNEESH JHINGAN, J (Oral):

The award dated 08.09.2016 passed by the Motor Accident Claims Tribunal, Kurukshetra [for brevity 'the Tribunal'] has been assailed by the insurer of Mahindra Pick-up bearing registration No. HR-39A-0896 [hereinafter referred to as 'offending

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vehicle']. A cross-appeal has also been filed by the claimants. The grievance raised in both the appeals is with regard to quantum of compensation. Since both the appeals arise from same award and accident, these are being disposed of by a common order.

[2] Brief facts of the case are that a motor vehicular accident took place on 08.07.2014. The accident was caused due to the rash and negligent driving of the offending vehicle which proved fatal for Amrik Singh, aged 55 years.

[3] A claim petition was filed by the widow and three children of the deceased under Section 166 of the Act. The Tribunal held that the insurer of the offending vehicle is liable to pay the compensation.

[4] In the claim petition, it was pleaded that the deceased was owner of approximately 7 acres, 7 Kanals and 6 Marlas of cultivable land and he was earning ₹40,000/- per acre, per year from the land which he was cultivating himself. The claimants produced *jamabandis* to show ownership as well as *girdawaris* but failed to substantiate monthly earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹16,000/-; 1/4th deduction for self-expenses was made and multiplier of '11' was applied. The Tribunal awarded ₹20,09,000/- alongwith interest @ 9% per annum. The amount awarded included ₹4,25,000/- under various conventional heads.

[5] Learned counsel for the insurer contends that the

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monthly income assessed by the Tribunal is on the higher side as it is much more than the minimum wages prevalent in the State at the time of accident. His grievance is that the amounts awarded under the conventional heads are also on the higher side.

[6] Learned counsel for the claimants contends that income assessed by the Tribunal is on the lower side as the deceased was cultivating sugarcanes and selling the same. The payments were being received through banking channels. She further contends that no future prospects have been awarded.

[7] In order to assess monthly earning of the deceased certain factual aspects needs to be gone into afresh. The bank statement relied upon by learned counsel for the claimants needs to be confronted to the insurer, even otherwise, the said statement cannot be relied upon as it is, until & unless proved.

[8] In such circumstances, the issue only with regard to quantum of compensation is remitted back to the Tribunal to be decided afresh after affording opportunity to the insurer and the claimants to adduce evidence in support of their claims, if so desired.

[9] The parties are directed to appear before the Tribunal on 11.04.2019.

[10] The appeals are disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

February 27, 2019
pankaj baweja

1. Whether speaking/ reasoned : Yes
2. Whether reportable : No

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