

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

Date of Decision: 15.05.2019

(i) FAO No. 4544 of 2017 (O&M)

Deepak Kumar @ Deepak and another

.....Appellants

Versus

Iqbal Singh and another

.....Respondents

(ii) FAO No. 5098 of 2017 (O&M)

IFFCO TOKIO General Insurance Company Limited

.....Appellant

Versus

Deepak Kumar @ Deepak and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Harinder Singh Sandhu, Advocate with
Ms. Gurjit Kaur Sandhu, Advocate
for appellants in FAO No. 4544 of 2017
for respondent No.1 and 2 in FAO No. 5098 of 2017.

Mr. Ajay Singla, Advocate
for appellant in FAO No. 5098 of 2017

Mr. Ankur Gupta, Advocate
for respondent No. 2 in FAO No. 4544 of 2017.

AVNEESH JHINGAN, J.(oral)

The present two appeals are against award dated 13.2.2017 passed by Motor Accident Claims Tribunal, Chandigarh, (hereinafter referred to as 'the Tribunal'). One appeal has been filed by the insurer of Car bearing registration No.HR-02-AJ-5317 (for short 'the offending vehicle') on the ground that claimants were not dependant upon the deceased-Ravinder @ Mahinder

claimants are two sons aged 30 years and 29 years.

The factum of accident has not been disputed. There is no challenge to the finding recorded by the Tribunal with regard to rash and negligent driving. No grievance has been raised with regard to liability to pay compensation.

The grievance raised by learned counsel for the insurer is that though issue No.2-"*Whether the claimant is entitled to compensation on account of death of Ravinder @ Mahinder Dhiman?*" was specifically framed but the Tribunal failed to decide as to whether the claimants were dependant upon the deceased or not.

Learned counsel for the claimants argues that the claimants are the brother and sister of the deceased and they were dependants on deceased.

The Tribunal has noted the contention of the insurer that the claimants were not dependant upon the deceased yet without giving any findings on the said aspect, loss of dependency has been awarded.

For deciding the said issue, certain factual aspects have to be decided which may require adducing of evidence.

Before deciding the issue, with regard to quantum of compensation, it would be necessary to determine whether the claimants were economically dependant upon the deceased or not.

Without expressing any opinion on the merits of the case, the matter is remitted back to the Tribunal to decide Issue No.2, afresh, after affording opportunity to the parties.

While issuing notice of motion on 31.7.2017 in FAO No. 5098 of

2017, following order was passed:

"Notice of motion returnable for 12.03.2018.

*There shall be stay with regard to recovery of compensation
amount beyond 50%."*

It is clarified that the interim order shall continue till the decision
of the remand proceedings.

Disposed of accordingly.

15.05.2019
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable:	No