

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5257 of 2018
Date of decision: 17.1.2019

Smt. Kalish

.. Appellant

v.

Parvinder and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Chanderhas Yadav, Advocate for the appellant.
Mr. Lalit Garg, Advocate for respondent No. 3.

...

AVNEESH JHINGAN, J. (Oral)

The mother of deceased-Mukesh is in appeal against the award dated 15.2.2018 passed by the Motor Accident Claims Tribunal, Jhajjar (for short, 'the Tribunal').

The facts in brief are that a motor vehicular accident took place on 11.6.2016, which proved fatal for Mukesh. The offending vehicle in the said accident was a bus bearing registration No. RJ-18PA-5429.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed. The Tribunal held that the accident was caused due to the rash and negligent driving of the offending vehicle. The owner, driver and insurer (i.e. National Insurance Company Ltd.) of the offending vehicle

were held liable to pay the compensation. The deceased was a Government

employee. His salary was considered as ₹19,665/- per month; 50% future prospects were awarded as he was in the age group of 26 to 30 years; one half deduction was made for self-expenses and a multiplier of '17' was applied. The Tribunal awarded a sum of ₹29,98,745/- along with interest @ 7.5% per annum.

Heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellant contends that the Tribunal while awarding the compensation has not considered the fact that salary of the deceased was revised retrospectively as 7th Pay Commission was implemented from the date prior to the date of accident.

Learned counsel for the insurer contends whether the salary of the deceased was revised from a date prior to the date of accident needs to be proved. His further grievance is that the amounts awarded under the conventional heads are on the higher side.

The factual aspect regarding salary of the deceased on the date of accident needs to be considered. There is no dispute that in case the salary is revised retrospectively by implementing the 7th Pay Commission, the revised salary has to be considered as per decision of the Supreme Court in **Ramrao Lala Borse and another v. New India Assurance Company Ltd. and another**, 2018 (1) JT 423.

Considering the facts of the case, the matter is remanded back to the Tribunal to decide afresh the issue regarding salary of the deceased at the time of accident. It is further clarified that compensation for the conventional heads shall be awarded by the Tribunal in accordance with the decisions of the Supreme Court.

The parties are directed to appear before the Tribunal on
28.2.2019.

The appeal stands disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

17.1.2019
mk

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No