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

**Date of decision: 13.01.2020**
FAO No.2617 of 2016 (O&M)

Shri Ram General Insurance Co. Ltd. ... Appellant

Versus

Jyoti Chauhan and others ... Respondents

FAO No.2954 of 2016 (O&M)

Shri Ram General Insurance Co. Ltd. ... Appellant

Versus

Bhawna and others ... Respondents

FAO No.3778 of 2016 (O&M)

Jyoti Chauhan and others ... Appellants

Versus

Charanjeet Singh and others ... Respondents

FAO No.4019 of 2016 (O&M)

Bhawna and another ... Appellants

Versus

Charanjeet Singh and others ... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. Punit Jain, Advocate for insurance company.
None for the claimants.
Mr. Gulshan Nandwani, Advocate for driver and owner.

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**REKHA MITTAL, J. (Oral)**

This order will dispose of FAO Nos.2617, 2954, 3778 and

4019 of 2016 as these have emerged out of the same award dated 05.10.2015 passed by the Motor Accidents Claims Tribunal, Rewari whereby compensation has been assessed on account of death of Arvind and Gajender in a motor vehicular accident that took place on 31.01.2014.

FAO Nos.2617 and 2954 of 2016 have been filed by Shri Ram General Insurance Co. Ltd. (hereinafter referred to as 'the insurance company') whereas FAO No.3778 of 2016 has been filed by Jyoti Chauhan and others and FAO No.4019 of 2016 by Bhawna and another for grant of additional compensation.

Counsel for the insurance company would inform that appeals have been filed to assail only quantum of compensation.

**FAO Nos.2617 and 3778 of 2016**

Counsel for the insurance company would argue that Tribunal has assessed income of the deceased @ Rs.34,000/- per month on the basis of salary certificate Ex.PW4/A produced by Neeraj Yadav PW4. It is argued that Neeraj Yadav did not produce any other document with regard to employment of the deceased.

There is no representation on behalf of the claimants.

The claimants examined Neeraj Yadav PW4 to prove that deceased was working in his company i.e. SL Fashion India Pvt. Ltd. Except document Ex.PW4/A i.e. salary sheet for December, 2013, the witness did not produce any record with regard to employment and income of the deceased. The occurrence in question took place on 31.01.2014. The Tribunal did not bother to seek production of other documents by Neeraj

Yadav to satisfy itself, if deceased was actually working with SL Fashion India Pvt. Ltd. and paid a particular salary.

Perusal of salary slip Ex.PW4/A would reveal that there was no deduction with regard to provident fund or gratuity etc. In the given circumstances, it is difficult to sustain findings of the Tribunal assessing income of the deceased at Rs.34,000/- per month on the basis of document Ex.PW4/A. At the same time, the Tribunal owes an obligation to assess just and reasonable compensation and can even collect evidence in its endeavor to do justice to the parties. The strict principles of law of evidence and procedure are not applicable to proceedings before the Tribunal. In the given circumstances, interest of justice commands that compensation assessed by the Tribunal is set aside and the matter be remitted for making assessment afresh on the basis of materials already on record and additional evidence to be adduced by the claimants with regard to employment and income of the deceased with SL Fashion India Pvt. Ltd. The Tribunal would require a representative of the aforesaid concern to produce complete records with regard to employment and salary, if any, paid to the deceased.

In view of what has been discussed hereinbefore, the appeals are disposed of. The matter is remitted to the Tribunal for assessment of compensation afresh. The parties through their counsel are directed to appear before the Tribunal on 17.02.2020. The Tribunal shall complete assessment of compensation afresh within a period of four months of parties putting in appearance. The Tribunal would not call upon driver and owner of the vehicle for assessment of compensation. In the meanwhile, the insurance company shall not recover compensation already paid to the claimants. As the appeal (FAO No.3778 of 2016) has been disposed of, application for condonation of delay is of academic relevance. Statutory amount deposited by the insurance company be remitted to the Tribunal for payment to the claimants.

**FAO Nos.2954 and 4019 of 2016**

In view of findings recorded in FAO Nos.2617 and 3778 of 2016, appeals are disposed of. The matter is remitted to the Tribunal for assessment of compensation afresh, in view of the terms indicated in aforesaid appeals. As the appeal (FAO No.4019 of 2016) has been disposed of, application for condonation of delay is of academic relevance. Statutory amount deposited by the insurance company be remitted to the Tribunal for payment to the claimants.

13.01.2020 **(REKHA MITTAL)**
ashok **JUDGE**

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