

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1175 of 2017 (O&M)

Date of Decision: 31.01.2019

Pavitra Devi and others

.....Appellants

Versus

Pankaj Sharma and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. A. Kalsi, Advocate for
Mr. Ankur Gupta, Advocate
for the appellants.

Mr. Satpal Dhamija, Advocate
for Insurance Company-respondent No.2.

AVNEESH JHINGAN, J.(oral)

The award dated 1.9.2016 passed by Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal') has been assailed by the legal heirs of Shamu @ Sham Lal, seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

During the pendency of the appeal, an application has been filed for adducing additional evidence i.e. copy of Aadhar Card.

The facts in brief are that a motor vehicular accident took place on 24.11.2014. The accident proved fatal for Shamu @ Sham Lal. The accident was caused due to rash and negligent driving of Car bearing registration No.DL-9-CAG-6817. In the claim petition filed, the Tribunal assessed the monthly earning as ₹ 7628/-; 1/5th deduction for self-expenses

was made; multiplier of 15 was applied considering the age of the

deceased as 40 years by relying upon the post-mortem report and awarded a sum of ₹ 10,98,432/- alongwith conditional interest. ₹ 1,85,000/- were awarded under the conventional heads over and above the amount of compensation.

Learned counsel for the applicants-appellants contends that the deceased was 29 years old at the time of accident and same was pleaded in the claim petition. He relied upon the date of birth mentioned in the Aadhar Card annexed with the civil miscellaneous application. He further contends that no future prospects have been awarded and multiplier has been wrongly applied.

Learned counsel for the insurer on the other hand contends that no proof regarding date of birth was produced before the Tribunal. The Tribunal relied upon the post-mortem report. Aadhar Card has been produced for the first time in this appeal, which needs to be verified. He contends that apart from Adhar Card, the claimants would be having other documents also to substantiate the age of the deceased. His grievance is that 1/5th deduction has wrongly been made as the deceased was not survived by more than six dependants. He further argues that the amount awarded under the conventional heads are on higher side.

Before deciding the quantum of compensation, the first issue which is to be decided is the age of the deceased at the time of accident as it would not only affect the future prospects but also the multiplier to be applied. The claimants failed to produce any document before the Tribunal. The photocopy of Aadhar Card is being produced for the first time in the appeal.

In such circumstances, it would not be appropriate to accept the Aadhar Card itself without providing an opportunity to the insurer to verify or to rebut the same. The issue with regard to quantum of compensation is

remitted back to the Tribunal to be decided in accordance with law, after

providing opportunity to both the parties to adduce evidence in support of their claim regarding date of birth of the deceased.

The parties are directed to appear before the Tribunal on 12.3.2019.

Disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

31.01.2019
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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No