

FAO-3206-2005 (O&M)

(1)

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

FAO-3206-2005 (O&M)

Date of Decision: March 26, 2015

Tej Kaur and others

.....Appellants

Versus

Rajiv Monga and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Ram Bilas Gupta, Advocate
for the appellants.

Mr.Paul S.Saini, Advocate
for respondent Nos.3 and 4.

.....

- 1. Whether Reporters of local papers may be allowed to see the judgment ?**
- 2. To be referred to the Reporters or not ?**
- 3. Whether the judgment should be reported in the Digest?**

Naresh Kumar Sanghi, J.(Oral)

CM-13858-2005

Prayer in this application filed under Section 151, CPC,
is for condonation of delay of 430 days in refiling the appeal.

In view of the facts mentioned in the application, delay
in refiling the appeal is condoned.

CM disposed of.

FAO-3206-2005

Challenge in this first appeal against order is to the Award, dated 12.11.2003, passed by the learned Motor Accidents Claims Tribunal, Sangrur, (for brevity, 'the Tribunal') whereby the claim petition was partly allowed with costs and the appellant-claimants were awarded Rs.4,06,000/- (Rupees four lacs and six thousand only) as compensation along with interest @ 9% per annum from the date of filing of the claim petition till realisation. The interest had to start if the amount was not paid within a period of two months of passing of the Award.

Learned counsel for the Insurance-company (respondent Nos.3 and 4) has pointed out that the amount of compensation was deposited with the Tribunal by way of a cheque dated 28.11.2003 and, as such, the interest clause had become inoperative.

Learned counsel for the appellant-claimants pointed out that Baldev Singh (since deceased) was aged about 45 years at the time of his death, therefore, the multiplier of 14 should have been applied instead of 11; the learned Tribunal has failed to award consortium to appellant No.1-Tej Kaur, the widow, and appropriate amount under the head 'love and affection' to

appellant No.3-Raj Singh, who was minor son of the deceased and that funeral expenses should have been Rs.25,000/- (Rupees twenty-five thousand only) instead of Rs.10,000/- as calculated by the Tribunal.

Learned counsel for the Insurance Company has fairly conceded that in the facts and circumstances of the case, particularly taking into consideration the age of Baldev Singh, the multiplier of 14 should be applied instead of 11; he further fairly conceded that nothing has been awarded to the widow under the head 'Consortium' and same is the position with regard to the amount to be awarded under the head 'love and affection' to appellant No.3-Raj Singh (minor son) of Baldev Singh (since deceased).

I have heard the learned counsel for the parties and with their able assistance gone through the material available on record.

There is no need to elaborate the factual aspects of the case since the present appeal has been filed by the appellant-claimants for enhancement of the compensation. The Insurance Company of the offending vehicle or the owner and the driver have not come before this Court challenging the issues holding

the respondents liable for satisfying the Award.

Since Baldev Singh (since deceased) was 45 years of age at the time of his death in the accident and, as such, the appropriate multiplier should be of 14. Reference can be made to **Sarla Verma and others vs. Delhi Transport Corporation and others**, 2009(2) SCC (Criminal) 1002. The learned Tribunal has calculated the monthly income of the deceased as Rs.4,500/- (Rupees four thousand and five hundred only), out of which 1/3rd amount was deducted for personal expenses of the deceased and hence the total dependency was calculated @ Rs.3,000/- (Rupees three thousand only) per month. In view of the fresh calculation, the appellant-claimant would be entitled to (3000 x 12 x 14) Rs.5,04,000/- (Rupees five lacs and four thousand only). In addition, appellant No.1-Tej Kaur (widow) would also be entitled to Rs.75,000/- (Rupees seventy five thousand only) under the head 'Consortium'; appellant No.3-Raj Singh, who was minor at the time of death of his father, would also be entitled to Rs.25,000/- (Rupees twenty-five thousand only) under the head 'love and affection', and all the appellants would further be entitled to Rs.15,000/- (Rupees fifteen thousand only) under the head 'funeral expenses'. The total amount would come to

Rs.6,19,000/- (Rupees six lacs and nineteen thousand only). The appellants would also be entitled to the interest on the enhanced amount @ 7.5 % per annum from the date the awarded amount was deposited, i.e. 28.11.2003. The Insurance Company, i.e. respondent Nos.3 and 4 would satisfy the Award.

However, it is made clear that the Insurance Company would be entitled to recover the same from respondent Nos.1 and 2 as per the order passed by the learned Tribunal. The amount shall be disbursed to the appellant-claimants as per the ratio described by the learned Tribunal.

March 26, 2015
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(NARESH KUMAR SANGHI)
JUDGE