

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 4001 of 2013 (O&M)
Date of decision: February 06, 2015

Future Generali

.....Appellants

versus

Rekha & another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Vishal Aggarwal, Advocate
for the appellants.

Mr. Vijay S. Kajla, Advocate
for respondents No.4 to 7.

JASPAL SINGH, J

CM No. 16181-CII of 2013

This is an application seeking condonation of delay in
filing the appeal.

In view of averments made in the application duly
supported with an affidavit of Mr. Karan Nangla, the same is allowed
and delay in filing the appeal is condoned.

CM stands disposed of.

FAO No. 4001 of 2013 (O&M)

Dissatisfied with the award dated February 20, 2013
passed in claim petition No. RBT-205/2012 captioned as Rekha &
others vs. Gurvinder Singh and another, whereby compensation was
awarded to the tune of ₹4,26,000/- on account of death of Bhupinder

Singh in a vehicular accident while fastening the liability jointly and severally upon both respondents, owner and Insurance Company, Insurance Company has preferred the instant appeal.

2. Notice of this appeal was given to the respondents. Though respondents No.1 to 3 were duly served but despite that fact neither they nor any other person duly authorised on their behalf appeared to contest/defend the appeal.

3. Briefly stated the facts of the case are that deceased Bhupinder Singh was going on his motorcycle bearing registration No. HR-05-N-8428 from village Uplana to village Uchana and when he reached on Assandh-Jalmana Road, near Satsung Bhawan, he met with an accident with motorcycle bearing registration No. HR-40-B-4533 being driven by Gurvinder Singh.

4. At the very outset, it would be pertinent to mention that though learned Tribunal on the basis of evidence available came to the conclusion that accident took place due to rash and negligent driving of vehicles in question by both the drivers of offending vehicles and driver of both vehicles namely Gurvinder Singh and Bhupinder Singh have died but while granting the relief, the Insurance Company was made liable to pay the entire amount of compensation to the tune of ₹4,26,000/- on account of death of Bhupinder Singh alongwith interest @ 9% per annum and failed to appreciate that on account of contributory negligence on the part of Bhupinder Singh, 50% deduction on overall compensation was to be made. Since, deceased-Bhupinder, predecessor-in-interest of

respondents No.1 to 3/claimants also contributed negligence in causing accident, therefore, 50% of compensation amount as assessed by learned Tribunal was to be deducted and liability of Insurance Company is only to the extent of remaining 50% of amount of compensation.

5. In the light of what has been discussed above, the instant appeal is partly allowed and Insurance Company is liable only to pay 50% of amount of compensation, so assessed i.e. ₹2,13,000/- alongwith interest as awarded by learned Tribunal. No order as to costs.

(JASPAL SINGH)
JUDGE

February 06, 2015
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