

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

FAO No.3961 of 2005 (O&M)
Date of decision: November 09, 2016

Bhola Singh and another ...Appellants

Versus

S. Subharyan & another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Ashok Jindal, Advocate for the appellants
in FAO No.3961 of 2005.
Mr. R.C. Kapoor, Advocate for the appellant
in FAO No.4238 of 2005 and for respondent No.2
in FAO No.3961 of 2005.

Rajan Gupta, J.(oral)

This order will dispose of two appeals i.e. FAO No.3961 of 2005 and FAO No.4238 of 2005, one preferred by the claimants and other by the insurance company, against the award dated 4.6.2005, passed by Motor Accident Claims Tribunal, Bathinda.

An accident took place on 18.07.2003 at about 6.30 A.M., wherein Randhir Singh had died. Randhir Singh was travelling in Truck No.RJ-13-G-6122, which was being driven by Kuldip Singh and the said truck struck against truck bearing No.TN-28-H-2799, which was parked without any indicator. An FIR was also registered regarding the incident. Claimants claimed Rs.10.00 lacs as compensation. The tribunal framed various issues. It came to the conclusion that accident had taken place due to the use of both the trucks. Driver and owner of Truck No.RJ-13-G-6122 have not been arrayed as respondents. It observed that claimants are entitled to compensation on account of death of Randhir Singh and the

owner and insurer of Truck No.TN-28-H-2799 are jointly and severally liable to pay the compensation. However, it was observed that both of them would be at liberty to take appropriate steps to adjudicate the inter se dispute between the drivers and owners of both the trucks involved in the accident. The tribunal found that deceased was 25 years of age at the time of his death and claimants were 57 and 54 years of age respectively. Monthly income of deceased was assessed as Rs.2000/- per month. As per 2nd schedule of Section 163-A of the Motor Vehicles Act, the compensation was assessed as Rs.1,92,000/- and after deducting 1/3rd amount as personal expenses of deceased, claimants were held entitled to compensation of Rs.1,28,000/-. After adding Rs.2000/- as expenditure on last rites, they were awarded a total compensation of Rs.1,30,000/- alongwith interest @ 4% per annum to be paid within three months. Primary liability to pay the amount of compensation was fastened upon the insurance company. I find no infirmity with the order. Besides, the accident took place way back in the year 2003. Claimants may have been paid the compensation alongwith interest by now. There is no ground to interfere in appellate jurisdiction of this court.

Both the appeals are dismissed.

(RAJAN GUPTA)
JUDGE

November 09, 2016
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No