

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5467 of 2009 (O&M)
Date of decision : February 12, 2016

Kamlesh

..... Appellant

v.

Rajesh Kumar and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Sandeep Kotla, Advocate
for the appellant.

Mr. Mahavir Sandhu, Advocate
for respondents No.1 and 2.

Mr. Vinod Gupta, Advocate
for respondent No.3.

1. **Whether Reporters of Local Newspapers 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 ?**

Ajay Tewari, J (Oral)

This appeal has been filed by the claimant/appellant for enhancement of compensation.

Brief facts are that on 14.1.2007, the appellant along with others were coming in a car from village Nagpur District Fatehabad to Hansi and when they reached near BSF Camp at about 8 pm, their car struck against the offending truck which was parked on the road in a negligent manner without indicator and reflector. As a result of this accident, one person died at the spot and other persons received injuries including the present appellant.

The Tribunal held the contributory negligence viz 75% to be

of the truck driver and 25% to be of the car driver. The Insurance Company was held liable to indemnify the driver of the offending truck i.e respondent No.2. As regards compensation, income of the deceased was determined as ₹3000/- per month, and after applying multiplier of 10 and deducting 1/3rd as personal expenses, total amount of compensation came to be ₹ 2,40,000/-. Besides this, a sum of ₹ 4500/- was granted towards funeral expenses.

Counsel for the appellant has argued that once the age of the deceased was admitted to be 24 years, multiplier of 17 had to be applied and lesser multiplier could not have been applied as per the age of the mother because that concept is available only in a petition filed under Section 166 of the Motor Vehicle Act and not under Section 163A of the Motor Vehicle Act.

Counsel for the respondent/Insurance Company has fairly accepted that this is the position in law.

In the circumstances, I direct that multiplier of 17 be applied and not 10.

Counsel for the appellant has further argued that only a sum of ₹ 4500/- has been awarded towards funeral expenses and loss of estate. Counsel for the Insurance Company has accepted this also to be the position in law. Consequently, I award ₹ 5,000/- more on these accounts.

With this modification in the Award, this appeal stands disposed of.

(AJAY TEWARI)
JUDGE

February 12, 2016
`kk'

