

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

FAO No. 2112 of 2011 (O&M)

Date of decision: January 18, 2016

Raj Kumar and another

...Appellants

Versus

Gurvinder Singh and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

- 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?**

Present: Mr. Ravindra Jain, Advocate,
for the appellants.

Ms. Kaavya Jariyal, Advocate,
for Mr. T.K. Joshi, Advocate,
for respondent No. 2.

K. KANNAN, J. (Oral)

1. The appeal is against the dismissal of a petition for claiming compensation. The involvement of the insured vehicle is not disputed. The claim is presented by the brothers of the deceased on a plea that the deceased, who was 52 years of age, was unmarried and he was being taken care only by the claimants. The accident had taken place on 3.12.2008 and he was discharged from the hospital on 10.12.2008. He, however, did not recover from the injuries suffered in the accident and ultimately died of malnutrition and septicemia arising out of the injuries suffered in the accident, as revealed in the post-mortem report. The doctor stated that the death was on account of the injuries suffered. The nexus of the accident and

death was clearly established. The Tribunal, however, dismissed the claim on the ground that the brothers did not prove their own dependency on the deceased brother. The decision is erroneous, for, it failed to recognize that the scheme of compensation under the Motor Vehicle Act is not merely on the basis of dependency but also on several other heads which must be addressed that includes loss to estate, funeral expenses and the extent to which deceased brother provided assistance to the claimants. The brothers were the legal heirs to his deceased brother in the absence of his wife or children and, therefore, claim could not have been dismissed. I will allow the scales of compensation at least under Section 163-A of the Motor Vehicle Act, taking the income to be ₹3,000/- per month as an agricultural employee and provided for a compensation of ₹2,86,000/- as provided in Schedule II of the Act. There shall also be in addition to the amount of ₹4500/- under the conventional heads of funeral expenses and loss to estate. The overall compensation shall, therefore, be Rs. 2,90,500/- with interest at the rate of 9% from the date of the filing of the petition till the date of payment. The liability shall be on the insurance company. The amount of compensation shall be disbursed equally between the claimants.

2. The award of dismissal is set aside and the appeal is allowed to the above extent.

January 18, 2016
prem

(K. KANNAN)
JUDGE