

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

**FAO NO. 5904 OF 2012 (O&M)
DECIDED ON : 13.05.2016**

Harbans Kaur and others

...Appellants

versus

Pardeep Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Vikram Bali, Advocate,
for the appellants.

Mr. Arun Sharma, Advocate,
for respondent No.3.

AJAY TEWARI, J. (ORAL)

CM NO. 23157-CII OF 2013

This is an application for placing on record the certified copy of the order dated 06.12.2010 passed by Judicial Magistrate Ist Class, Rajpura, whereby respondent No.1 has been charged for an offence punishable under Section 304-A of the Indian Penal Code in respect of death caused on 12.09.2010.

No reply has been filed.

In these circumstances, the application is allowed and the certified copy of order dated 06.12.2010 is taken on record.

MAIN CASE

A perusal of the impugned order reveals that the claim petition was dismissed and one of the ground taken was that the driver had not been proceeded against under Section 304-A of the Indian Penal Code. In view of the order framing charge, placed on record, this finding has to be set-aside.

Learned counsel for the Insurance Company, however, points out and rightly says that there was no bar to the appellants for having produced this evidence at the very beginning and now this evidence has been placed on record after almost six years.

I find some weight in this argument and therefore, the Insurance Company cannot be prejudiced on account of this appeal. In my opinion, this grievance can be redressed by clarifying that in any case the appellants will not be entitled to claim any interest from the date of filing the petition till today. With this caveat, the impugned order is set-aside, the matter is remanded back to the Motor Accident Claims Tribunal, Panchkula, for fresh decision on merits. The parties through their counsel are directed to appear before the Tribunal on 05.07.2016.

(AJAY TEWARI)
JUDGE

MAY 13, 2016
shalini