

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

FAO-1082-2016 (O&M)

Date of decision: 12.2.2016

SBI General Insurance Company Ltd.

...Appellant

Versus

Angoori Devi and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Satpal Dhamija, Advocate for the appellant

SNEH PRASHAR, J.

CM-3388-CII-2016

The present application is for condonation of delay of 42 days in refiling the appeal.

For the reasons enumerated in the application, the same is allowed. Delay of 42 days in filing the appeal is hereby condoned subject to all just exceptions.

FAO-1082-2016 (O&M)

By filing the instant appeal, the appellant- Insurance Company has assailed the award dated 13.8.2015 passed by learned Motor Accidents Claims Tribunal, Hisar (in short 'the Tribunal'), vide which a sum of Rs.19,92,671 has been awarded as compensation to the claimants on account of death of Dholu Ram in

a motor vehicular accident.

The claimants being legal heirs of deceased Dholu Ram, who lost his life in the accident that took place on 28.11.2013, filed a claim petition under Section 166 of the Motor Vehicle Act. It is not disputed that the accident occurred due to rash and negligent driving by Respondent No.6- driver of the offending vehicle. Learned Tribunal held liable the insurer of the vehicle to indemnify the award.

The submissions made by learned counsel for the appellant have been heard.

Learned counsel for the appellant submitted that the income of the deceased taken by learned Tribunal i.e. Rs.9944/- while assessing the compensation is on the higher side. Also, the compensation awarded on account of loss of love and affection to all the claimants i.e. Rs.One lac each is excessive.

Perusal of the award reveals that the deceased was proved to be a Carpenter by occupation. He was 35 years old and was having five dependents i.e. wife, mother and three minor children. There being no substantive evidence to prove his monthly income, learned Tribunal while computing the compensation assessed his income as per the monthly wages of a skilled worker/ Carpenter fixed by District Magistrate, Hisar in pursuance of

instruction contained in Punjab Govt. Letter No.7004-E-41/60571 (Finance General) dated 21.11.1941. As such, the monthly income of the deceased assessed as Rs.9944/-, does not warrant intervention.

Untimely death of Dholu Ram was a great shock to his family. There is no other major male member in the family to look after the dependents. The children are minor. Therefore, learned Tribunal considering the law laid down by the Hon'ble Apex Court in **Vimal Kanwar and others vs. Kishore Dan and others 2013 (2) RCR (Civil) 945**, has rightly awarded a sum of Rs.One lac each for loss of love and affection to all the claimants.

In the above premises, the present appeal being devoid of merit is dismissed.

12.2.2016
gsv

(SNEH PRASHAR)
JUDGE