

FAO-1176-2016 (O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-1176-2016 (O&M)

Date of decision: 16.2.2016

The New India Assurance Co. Ltd.

...Appellant

Versus

Sangeeta and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Suvir Dewan, Advocate for the appellant

SNEH PRASHAR, J.

CM-3612-CII-2016

The present application under Section 5 of the Limitation Act has been filed for condonation of delay of 7 days in filing the appeal.

For the reasons enumerated in the application, the same is allowed. Delay of 7 days in filing the appeal is hereby condoned subject to all just exceptions.

FAO-1176-2016 (O&M)

By filing the instant appeal, the appellant Insurance Company has challenged the Award dated 28.10.2015 passed by learned Motor Accident Claims Tribunal, Kurukshetra awarding a sum of Rs.20,74,600/- as compensation to respondents No.1 to 3-

claimants on account of death of Kuldeep Singh in a motor vehicular accident.

On 30.10.2014, after taking medicines from Babain, Kuldeep Singh (since deceased) and his brother Satbir Singh were returning home on their motorcycle. At about 3.30 P.M., when they reached near Mazar of Peer on Kandoli-Bukhri road, a tractor bearing registration No.HR-07E-1085 (hereinafter referred to 'the offending tractor') being driven by respondent No.4-Sunil Kumar @ Bhura in a rash and negligent manner, came from the side of Babain and hit their motorcycle. Due to the impact, they fell down and suffered multiple and grievous injuries. Kuldeep Singh was rushed to LNJP Hospital, Kurukshetra by Sunil @ Bhura, where he was declared dead. With regard to the accident, First Information Report No.210 dated 30.10.2014 under Section 279 and 304-A of the Indian Penal Code was registered at Police Station Ladwa against respondent No.4- Sunil Kumar, driver of the offending tractor.

The legal heirs of deceased Kuldeep Singh filed a petition invoking the provisions of Section 166 of the Motor Vehicle Act, 1988 (hereinafter to be referred as 'the Act') was allowed by learned Tribunal, awarding compensation as indicated above. Appellant Insurance company being insurer of the offending tractor was held liable for payment of the award amount alongwith interest.

Feeling the quantum of compensation to be on the higher side, the appellant preferred the instant appeal.

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

The only argument raised by learned counsel for the appellant is that the deceased, as pleaded by the claimants, was a auto mechanic. He was not employed and had no fixed income. Therefore, increase in income towards future prospects to the extent of 50% should not have been allowed to the claimants-respondents No.1 to 3.

The argument of learned counsel is of no force. In Rajesh and others vs. Rajbir Singh and others 2013 (9) SCC 54 the Hon'ble Supreme Court has observed as under:

“11. Since, the Court in Santosh Devi's case (supra) actually intended to follow the principle in the case of salaried persons as laid in Sarla Verma's case (supra) and to make it applicable also to the self employed and person on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self employed or persons of fixed wages, in case,

the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.”

In the case in hand, the deceased was a young man aged 24 years. Even though he was not employed, there had to be an addition of 50% to his actual income assessed by the Tribunal on account of future prospects. The findings of learned Tribunal call for no intervention.

There being no merit in present appeal. It is dismissed.

16.2.2016
gsv

(SNEH PRASHAR)
JUDGE