

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

FAO No.791 of 2013 (O&M)
Decided on 01.02.2016

New India Assurance Company Limited

.... Appellant

versus

Smt.Usha Devi and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Neeraj Khanna, Advocate
for the appellant.

Mr. J.P.Sharma, Advocate
for respondents No.1 to 4.

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?

AJAY TEWARI, J.(ORAL)

This appeal has been filed against the award dated 30.11.2012 passed by the Motor Accident Claims Tribunal, Rewari whereby the claimants were awarded a sum of Rs.15,40,784/- with interest @ 9%p.a. as compensation holding all the respondents to pay the same jointly and severally.

Brief facts of the case are that on 28.06.2010 Balbir Singh was going on motor cycle bearing No.HR36M-4348 being driven by Jai Bhagwan which met with an accident near village Tikri with a bus bearing No.DL-1-PB-6639 being driven by Pardeep Kumar (respondent No.5 in this appeal) as a result of which Balbir Singh fell down on the road and died due

to the injuries suffered by him at the time of the accident. The Tribunal assessed the compensation as stated above.

Learned counsel for the appellant-Insurance Company has argued that income tax returns post death could not be taken into consideration and therefore, annual income could not be fixed at Rs.1,56,490/-.

Learned counsel for the claimant-respondent has argued that as per the present position in law there is a shortfall of Rs.95000/- on account of consortium to respondent No.1 and an amount of Rs.1.00 lac each towards loss of love and affection which is payable to respondent No.1 and 4-minor daughter and a shortfall of Rs.50,000/- each under the same head to respondents No.2 and 3. Apart therefrom there is a shortfall of Rs.15000/- for funeral expenses. Therefore, even if there is some exaggeration in the income that would be offset by these shortfalls.

Learned counsel for the Insurance Company is not in a position to refute this stand.

In the circumstances the appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

February 1, 2016
Pooja Sharma-I

(AJAY TEWARI)
JUDGE