

**CM No.24491-CII of 2016 and
FAO No.7149 of 2016 (O&M)
Date of Decision: December 02, 2016**

Reliance General Insurance Co. Ltd.

....Appellant

Versus

Hajar Khan and others

....Respondents

CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sanjeev Kodan, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.24491-CII of 2016

Prayer in the application is for condonation of delay of 08 days in filing the appeal.

For the reasons mentioned in the application which is duly supported by an affidavit of Sh. Suryadeep Singh, Assistant Manager, Legal Claims and Authorized Signatory, Reliance General Insurance Company Ltd., Chandigarh, the present application is allowed.

Delay of 08 days in filing the appeal stands condoned.

FAO No.7149 of 2016 (O&M)

Challenge in this appeal is to the common award dated 14.09.2016, which has been passed in Application No.50 of 2015 relating to death of Sakir S/o Kamru and Application No.52 of 2015 in response to death of Niyaj Mohd. S/o Hajar Khan, whereby the claim applications have

been allowed and compensation granted to the claimants.

It is the contention of learned counsel for the appellant that deceased Niyaj Mohd. was working, admittedly, as a Cleaner on Truck bearing No.HR-38-Q-3708 owned by Sh. Fateh Singh-respondent No.4. He contends that no documentary evidence has been produced on behalf of claimants showing that the deceased was getting wages @ ₹10,000/- per month. He further contends that excepts for the oral statements of the claimants, nothing has come on record which would indicate that he was actually getting wages of ₹10,000/- per month. He, however, contends that the wages as has been assessed qua the deceased is on the higher side and, therefore, compensation amount as assessed, cannot sustain and deserves to be reduced.

I have considered the submissions made by counsel for the appellant and with his able assistance have gone through the impugned order.

The factum that deceased-Niyaj Mohd. was working as a Cleaner on Truck bearing No.HR-38-Q-3708 is not in dispute. The owner of the vehicle namely Sh. Fateh Singh – respondent No.4 had been proceeded against *ex parte* as despite service he chose not to appear. No evidence has been brought on record on behalf of the appellant which would counter the assertion of the claimants with regard to the wages which were being earned by the deceased while working as a Cleaner of the truck. Mere denial would not be enough especially when there is a positive assertion on the part of the claimants in the evidence which have been led apart from the

pleadings. In the cross-examination also, it appears that nothing has come out, which would in any manner, effect the veracity of the claims made with regard to the salary being paid to deceased-Niyaj Khan. The quantum as assessed by the Commissioner being based upon the proper appreciation of the pleadings and on the basis of the evidence and as provided under the statute, no interference by this Court is required for.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

Since the main appeal stands dismissed, *CM No.24492-CII of 2016*, also stands disposed as infructuous.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

December 02, 2016
ps-I

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No