

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

**FAO No. 111 of 2002 with
XOBJCS-53-CII-2010
Date of decision: 25.09.2017**

Sushil and Others

...Appellants

Versus

Ghansham and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.N. Lohan, Advocate
for the appellants.

Mr. Paul S. Saini, Advocate and
Mr. Vipul Sharma, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J.(ORAL)

The present appeal and cross objections have been filed against the award dated 07.08.2001 passed by the Motor Accident Claims Tribunal, Jind (for short, 'The Tribunal').

Kulbir Singh aged 29 years lost his life in an accident which occurred on 18.09.99.

A claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'The Act') was filed by the widow, minor children and parents of the deceased.

The Tribunal awarded a sum of ₹6,40,000/- along with interest at the rate of 9% per annum.

During the pendency of the appeal, the Insurance Company filed cross objections in 2010, stating that the income of the deceased was more than ₹40,000/- per annum. Therefore, Section 163-A could not have been invoked by the Tribunal.

That the learned counsel for the appellant on instruction from appellant No. 2-Sh. Ajay who is present in the Court, prays for withdrawal of the appeal.

The present appeal is dismissed as withdrawn.

So far as the cross-objections are concerned even though appeal has been withdrawn same has to be decided.

But in the present case the Tribunal has only given compensation treating the annual income of the deceased as ₹40,000/- per annum.

In such circumstances, after withdrawal of the appeal by the appellants this cross-objection is only a hyper technical in nature, therefore, the same is not being decided on merits. Even otherwise, this is a burnt case which has been reconstructed by copies supplied by the counsel subject to all just exceptions. It is not clear that when the Insurance Company was served. The cross objections have been filed in the year 2010. There is no mention with regard to earlier period. No application for condonation of delay has been moved. The same are dismissed.

The net result is that the appeal is dismissed as withdrawn and cross objections are dismissed.

September 25, 2017

Poonam (II)

**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No