

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

FAO No. 4240 of 2014 (O&M)
Date of Decision: September 18, 2017

United India Insurance Co. Ltd.

..Appellant

Versus

Kailaso and others

..Respondents

with

FAO No. 7693 of 2015 (O&M)

Kailaso

..Appellant

Versus

Kewal Singh and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rohit Goswami, Advocate for
Mr. D.P. Gupta, Advocate
for the appellant-insurance company in FAO-4240-2014 and
for respondent no.3-insurance company in FAO-7693-2015.

None for respondent no.1 in FAO-4240-2014.

Mr. Sandeep Goyat, Advocate
for respondent no.3 in FAO-4240-2014 and
for respondent no.2 in FAO-7693-2015.

REKHA MITTAL, J.(oral)

**CM-12359-CII-2014 in
FAO-4240-2014**

Prayer in this application is for condoning delay of 23
days in filing the appeal.

In view of averments made in the application supported by an affidavit, the application is allowed and delay of 23 days in filing the appeal stands condoned.

**CM-24203-CII-2015 in
FAO-7693-2015**

Prayer in this application is for condoning delay of 501 days in filing the appeal.

In view of averments made in the application supported by an affidavit of applicant/appellant and arguments advanced by counsel for the parties, application is allowed and delay of 501 days in filing the appeal stands condoned subject to condition that in case the appellant succeeds in appeal, she will forgo interest for the period of delay.

Main Cases

This order will dispose of FAO-4240-2014 and FAO-7693-2015 as these have emerged out of the same award dated 27.01.2014 passed by the Motor Accidents Claims Tribunal, Hisar (hereinafter to be referred as the Tribunal), whereby compensation has been awarded in regard to death of Sonu son of the claimant/appellant in a motor vehicular accident that took place on 14.06.2012.

The Tribunal, by relying upon judgments of Hon'ble the Supreme Court *Manju Devi and another Vs. Musfir Paswan and others 2005 ACJ 99* and *Shyam Narayan and others Vs. Kitty Tours and Travels 2006 ACJ 320* assessed compensation to the tune of Rs.5,00,000/-. In addition, an amount of Rs.50,000/- has been awarded for loss of company and pain and suffering, making total compensation

to Rs.5,50,000/-, payable with interest @ 7.5% per annum from the date of petition till realization.

FAO-4240-2014 has been filed by the United India Insurance Company Ltd. (hereinafter to be referred to as 'the insurance company') whereas the other FAO-7693-2015 has been preferred by the claimant seeking enhancement of compensation.

Counsel for the insurance company would argue that as per plea of the claimant, Sonu was 15 years old at the time of occurrence. It is further argued that this plea of the claimant with regard to age of the deceased becomes doubtful in view of the fact that the claimant had stated herself to be 30 years old in the application for compensation filed in August, 2012. Another submission made by counsel is that there is nothing on record suggestive of the fact as to what the deceased was doing before his death much less his being an earning hand, therefore, compensation assessed by the Tribunal is on higher side and liable to be reduced.

Counsel representing the claimant, on the contrary, has submitted that in the two judgments relied upon by the Tribunal question before the Court was determination of compensation in regard to death of young persons aged 15 or less than 15 years. Further submitted that Hon'ble the Supreme Court of India in ***Krishan Gopal and another Vs. Lala and others 2013(4) RCR (Civil) 276*** awarded compensation to the tune of Rs.5,00,000/- in respect of death of a child aged 10 years and the occurrence pertains to July 1992. According to counsel, the claimant is entitled to

additional compensation under conventional heads i.e. loss of love and affection and expenses on transportation/funeral/last rites of the deceased.

I have heard counsel for the parties, perused the paper books particularly the award passed by the Tribunal.

Hon'ble the Supreme Court of India in Krishan Gopal and another's case (supra) assessed notional income of child aged 10 years at Rs.30,000/- per annum and applied multiplier of 15 to compute loss of dependency at Rs.4,50,000/-. In addition, an amount of Rs.50,000/- has been awarded under conventional heads i.e. loss of love and affection, funeral expenses and last rites. The accident in the said case had occurred on 19.07.1992.

In the instant case the accident had taken place on 14.06.2012. As per plea of the claimant, Sonu was 15 years old. The insurance company did not adduce any evidence to rebut plea of the claimant with regard to age of deceased Sonu. The claimant also lost her husband in the same occurrence. There is no denial that Sonu was the only child of Kailaso and Naresh. Taking into consideration the latest judgment in Krishan Gopal and another's case (supra), assessment for loss of dependency made by the Tribunal to the tune of Rs.5,00,000/- cannot be faulted with. Another amount of Rs.50,000/- awarded by the Tribunal is affirmed. The claimant shall be entitled to additional amount of Rs.50,000/- for expenses on funeral/last rites as well as loss of love and affection of her only son. In this manner, total compensation comes

to Rs. 6,00,000/- lacs and the additional amount of Rs.50,000/- shall be payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay i.e. 501 days.

For the foregoing reasons, the appeal filed by the insurance company is dismissed. However, the appeal filed by the claimant is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

September 18, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No