

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

FAO No.5571 of 2016 (O&M)
Date of decision: March 22, 2017

National Insurance Co. Ltd. ... Appellant

Versus

Balwinder Kaur & others ... Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Naveen Chopra, Advocate for the appellant.

Rajan Gupta, J.

CM-19070-CII-2016:

This is an application for condonation of 76 days delay in filing the appeal. For the reasons mentioned in the application, same is allowed. Delay in filing the appeal is condoned.

FAO-5571-2016:

Appellant National Insurance Company Limited has impugned the award dated 02.03.2016, passed by Motor Accident Claims Tribunal, Amritsar, whereby compensation has been awarded to the claimants on account of death of Nirmal Singh in the accident.

Learned counsel for the appellant has argued that accident occurred on account of sudden coming of stray animals in front of the bus and there was no rash or negligent driving of driver of the bus.

I have heard learned counsel for the appellant and given

careful thought to the facts of the case.

Accident occurred on 09.01.2015, wherein Nirmal Singh son of claimants/respondents No.1 and 2 had died. DDR No.11 dated 10.01.2015 was registered at Police Station Gidder Baha regarding the said accident. A claim petition under Section 166/140 of the Act was filed by the claimants. In support of their case claimants examined Darshan Singh as PW-2, who was an eye-witness of the accident and proved that accident was result of rash and negligent driving of the offending bus by its driver, who was driving the same at a high speed. On appraisal of evidence, the tribunal came to the conclusion that accident was caused by respondent No.3 while driving offending bus in a rash and negligent manner. As regards quantum of compensation, the tribunal observed that deceased was 28 years of age at the time of accident. It assessed monthly income of the deceased as ₹7500/- and after deducting 50% amount towards personal expenses of deceased, monthly dependency of claimants was assessed as ₹3750/- i.e. ₹45,000/- per annum and after applying a multiplier of '17', claimants were awarded ₹7,65,000/- as compensation. Adding ₹25,000/- for funeral expenses and ₹5000/- for loss of estate, claimants were granted a total compensation of ₹7,95,000/- along with interest @ 7.5% per annum from the date of filing of petition till realization.

There appears to be no apparent error in appraisal of evidence by the tribunal. In my considered view, there is no infirmity with the findings arrived at by the Tribunal. The insurance company did not adduce any evidence to prove that accident was not result of rash and

negligent driving of driver of the offending bus. The appeal is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

March 22, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No