

FAO-3669-2012 (O&M)
FAO-5501-2013 (O&M)

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

Date of Decision : 10.8.2018

211 FAO-3669-2012 (O&M)

Naresh Arya and another Appellants
vs.

Arif Khan and others Respondents

211-A FAO-5501-2013 (O&M)

Naresh Arya and another Appellants
vs.

Arif Khan and others Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Munish Kumar Garg, Advocate for the appellants.

Mr. Subhash Goyal, Advocate
for respondent No.3-ICICI Lombard Gen. Ins. Co. Ltd.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.6-National Insurance Co. Ltd.

AJAY TEWARI, J. (Oral)

CM-23219-CII-2013 in FAO-5501-2013

This is an application for condonation of delay of 524 days
delay in filing the appeal.

The ground taken by the counsel for the appellant is that when
the appeal was filed, by mistake only one appeal was filed for claiming
enhancement in both the cases. It was later realised that two appeals have to
be filed.

No reply has been filed. It is a case where technical error has

occurred in filing the appeal.

In the circumstances, delay of 524 days in filing the appeal is condoned.

Main Cases

This order shall dispose of above mentioned two appeals.

These two appeals have been filed against the award dated 9.12.2011 passed by the Motor Accident Claims Tribunal, Jind granting compensation on account of death of 8 years old boy and 6 years old girl Rs.2,30,000/- each and interest @ 9 % per annum.

Brief facts of the case are that on 22.2.2011 on around 8:15 a.m while carrying school children from village Gosain Khera School the bus driven by deceased Dalsher was coming to Indus school, Jind and trying to over take a truck bearing registration No. PB-02AN-9478 near village Kinana, in the meantime aforesaid trailer/truck bearing registration No. HR-38Q-5462 driven by respondent No.1 came from Jind side and struck against it and thereafter the aforesaid truck driven by respondent No.4 also hit it from behind. Resultantly, its Driver Dalsher and school boys Shubham and Simran sustained injuries and died at the spot, whereas Sahab Singh and Disha received grievous injuries. Claim petition was filed. The Tribunal ordered the compensation as mentioned above.

Learned counsel for the appellant(s) has argued that the compensation of Rs.2,30,000/- each awarded for the death of 8 years old boy and 6 years old girl is highly inadequate.

Learned counsel for the insurance company states that the income should be fixed on the basis of **Krishan Gopal and another Vs.**

Lala and others, 2013(4) RCR (Civil) 276.

Learned counsel for the appellant(s) points out that that judgment was delivered in the context of an accident which had taken place some decades ago and this judgment has been now considered by this Court in ***Usha Rani and another Vs. Arvind and others*** bearing ***FAO No.1717 of 2014*** decided on 27.09.2016 where after considering Krishan Gopal and another's case (supra) and after taking into account the time which has elapsed compensation of Rs.6,43,580/- had been awarded for a death of 15 years old boy. In the present case since the deceased were 8 years old boy and 6 years old girl, in my considered opinion, the compensation should be tagged at Rs.5,00,000/- each. Enhanced amounts shall carry 7.5% rate of interest from the date of filing of the petition till the date of payment. Rest of the award shall remain unchanged. Both the appeals stand allowed.

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

10.8.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No