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

**FAO No.145 of 2013(O&M)
Date of Decision: 29.05.2018**

Oriental Insurance Company Ltd. ......Appellant
Vs

Maya and others
.....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. D.P. Gupta, Advocate
for the appellant.

Ms. Kusum Raj, Advocate for
Mr. S.S. Sahu, Advocate
for respondents No.5 and 6.

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RAJ MOHAN SINGH, J. (Oral)

[1]. Claim petition was decided by the Motor Accident Claims Tribunal, Fatehabad vide award dated 03.11.2012, thereby awarding an amount of Rs.10,12,564/- to the claimants for the death of Lal Chand in a vehicular accident.

[2]. Respondent No.1 being widow of the deceased was held entitled to a sum of Rs.8 lacs. Smt. Kalan Devi respondent No.3 was held entitled to a sum of Rs.1.25 lacs. Remaining amount of compensation was ordered to be given to minor claimants i.e. respondents No.2 and 4 in equal shares. The

liability to pay the compensation was fixed on the Insurance Company. The aforesaid amount of compensation was payable with interest @ 9% per annum from the date of filing of the claim petition till final realization of the amount. Smt. Maya was held entitled to withdraw 25 % of her share in cash and her remaining share as well as share of minor claimants was ordered to be kept in separate FDRs in some nationalized bank for a period of three years or till the minors attain majority whichever is later. It was ordered that they would not be allowed to withdraw that amount of compensation except in emergent situations. Similarly, Smt. Kalan was held entitled to withdraw her share in cash.

[3]. Vide order dated 06.09.2016, appeal qua respondents No.3 and 4 was dismissed and its adverse affect qua other respondents was to be seen at the time of final disposal.

[4]. As per office report, respondents No.1 and 2 have not been served. Even if, respondents No.1 and 2 are presumed to be served, the legal position would not change. The Insurance Company was held liable to pay the amount of compensation in favour of respondents No.1 to 4 in the manner as indicated in the impugned award. Since the appeal qua respondents No.3 and 4 has been dismissed vide order dated 06.09.2016,

therefore, there cannot be any split entitlement of the Insurance Company to challenge the award qua respondents No.1 and 2.

[4]. In view of aforesaid position, I am of the view that nothing more can be debated on merits. Surviving issue cannot be decided in isolation. This appeal is accordingly dismissed.

May 29, 2018 **(RAJ MOHAN SINGH)**
Prince **JUDGE**

Whether speaking/reasoned Yes/No
Whether reportable Yes/No