

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 283 of 2019 (O&M)

Date of decision : 16.1.2019

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United India Insurance Company Limited

.....Appellant

vs.

Smt. Mamta @ Mamata Devi and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Ram Avtar, Advocate for the appellant

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H. S. Madaan, J. (Oral)

Respondent – Insurance company is feeling aggrieved by the award dated 19.3.2018, vide which, while deciding a claim petition under Section 166 of the Motor Vehicles Act, with respect of death of victim namely, Deepak Kumar, stated to be employed as driver of a truck, the Tribunal had taken his monthly income to be Rs.12,100/- considering the notification for the period 1.3.2017 to 28.2.2018, by Deputy Commissioner, Karnal, mentioning the wages paid to a casual labourer as Rs.12,100/- per month. I do not find the income so taken, to be on higher side.

Learned counsel for the appellant has referred to citation **Govind Yadav vs. The New India Insurance Company Limited, 2011 (5) Recent Apex Judgments (R.A.J.) 594**, wherein it was observed that when claimant was working as helper, who met with an accident and could not prove his monthly earnings, in such a case,

compensation be assessed on the basis of minimum wage payable to worker at the relevant time. The Tribunal in this case has taken into consideration the minimum wages paid to a casual worker, as per Deputy Commissioner rates and the amount so arrived at, cannot be said to be on higher side.

The appeal is time barred also. An application under Section 5 of the Limitation Act, for condonation of delay of 141 days in filing the appeal has been moved, for the reason that a considerable time was taken in official correspondence and taking legal opinion etc., resulting in delay.

I do not find any justification in condoning the delay for such like reasons.

Therefore, the appeal stands dismissed being time barred and otherwise having no merit.

16.1.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No