

In the High Court of Punjab and Haryana at Chandigarh

**FAO- 5895 of 2018(O&M)
Date of Decision: 17.1.2019**

The New India Assurance Company Limited

---Appellant

versus

Sandeep Kumar (since deceased) through his LRs and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Satpal Dhamija, Advocate
for the appellant**

Rekha Mittal, J.

The present appeal directs challenge against award dated 24.1.2018 passed by the Motor Accidents Claims Tribunal, Kaithal (in short “the Tribunal”) whereby compensation has been assessed on account of death of Smt. Satya Devi @ Satya Gupta in a motor vehicular accident that took place on 18.6.1995.

Counsel for the appellant has assailed the award on three counts. The first submission made by counsel is that as the occurrence took place outside the boundary of India, to be precise, in the area of Nepal, the insurance company is not liable to pay compensation. Another submission made by counsel is that application for compensation has been filed by Sandeep Kumar and Pankaj Gupta sons of Satya Devi @ Satya Gupta and both the sons are stated to be gainfully employed, therefore, they cannot claim compensation qua loss of dependency. The last submission made by

counsel is that claimants could not prove factum of rash and negligent driving by driver of offending bus bearing No. UP- 10B-0939. However, counsel has fairly informed that issue with regard to the accident having occurred outside boundary of India or liability of the insurance company to pay compensation is answered against the insurance company in FAO No. 152 of 2017 decided on 13.11.2017 filed by Anil Kumar owner of the ill fated bus aforesaid, thus, he does not press those issues.

The only issue that survives for consideration is whether the claimants being adult and earning sons of the deceased can be denied compensation. Firstly, even if the sons are earning, it cannot be said that they would not look towards their parents for financial assistance. Secondly, even if they are not held to be dependent on earning of their parents, they are entitle to substantial amount in respect of loss of estate. In the case at hand, the Tribunal has assessed compensation by applying deduction to the extent of 50% in place of 1/3rd. In the given scenario, I do not find an error much less illegality in assessment of compensation by the Tribunal.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay in refiling the appeal is of academic relevance.

(Rekha Mittal)
Judge

17.1.2019

PARAMJIT Whether speaking/reasoned : Yes
 Whether reportable : Yes/No