

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:4.4.2019

FAO No. 4654 of 2015(O&M)

Parminder Kaur

---Appellant

vs.

Poonam Rani and others

---Respondents

FAO No. 5687 of 2015(O&M)

Poonam Rani and others

---Appellants

vs.

Parminder Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Naveen Mandhan, Advocate
for Mr. Pankaj Bali, Advocate
for the appellant in FAO- 4654 of 2015
None for the claimants
Mr. Sachin Ohri, Advocate, for the insurance company

Rekha Mittal, J.
CM No. 14585-CII of 2015

Prayer in this application is for condoning delay of 39 days in
refiling the appeal.

In view of averments made in the application and arguments
advanced by counsel for the applicant, application is allowed and delay of
39 days in re-filing the appeal stands condoned.

Disposed of accordingly.

Main case

This order will dispose of FAO Nos. 4654 and 5687 of 2015 as
these have emerged out of the same award dated 6.8.2014 passed by the
Motor Accidents Claims Tribunal, Panipat (in short “the Tribunal”) whereby

compensation has been awarded on account of death of Ravinder Kumar in a motor vehicular accident that took place on 9.1.2011.

FAO No. 4654 of 2015 has been filed by the registered owner of the vehicle whereas the other appeal has been preferred by the claimants seeking enhancement of compensation.

The Registered owner shall be referred to as the 'appellant' whereas the claimants would be referred to as 'the claimants' for the sake of convenience.

FAO Nos. 4654 and 5687 of 2015

Counsel for the appellant would argue that as the deceased himself was negligent in causing the accident, claimants have wrongly been allowed compensation being legal representative of a tortfeasor. Another submission made by counsel is that the deceased was 34 years old at the time of occurrence but the Tribunal has applied multiplier of 17 as against admissible multiplier of 16.

There is no representation on behalf of the claimants earlier being represented by a counsel.

The plea of the appellant with regard to deceased being a tortfeasor, thus, claimants being not entitle to get compensation is not tenable because the claim has been preferred under Section 163-A of the Motor Vehicles Act, 1988 (in short “the Act”) wherein the Tribunal is not competent to go into the question of accident being the result of neglect on the part of the victim. In this context, reference can be made to judgment of Hon'ble the Supreme Court **United India Insurance Company Limited vs. Sunil Kumar and another 2018(1) RCR (Civil) 680.**

The second submission made by the appellant with regard to multiplier applied by the Tribunal is also not tenable, when examined in the light of 2nd Schedule appended to section 163-A of the Act, wherein it has been prescribed that multiplier would be 17 above 30 years but not exceeding 35 years.

No other point has been raised.

I have gone through the award with regard to assessment of compensation. The Tribunal has assessed compensation in complete consonance with the provisions of 2nd Schedule appended to Section 163-A of the Act. As such, there is not justification for allowing compensation more than what has been assessed by the Tribunal.

In view of the above, the appeals are disposed of, leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

4.4.2019
paramjit

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