

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

FAO No. 5593 of 2019 (O&M)

DATE OF DECISION :- November 17, 2022

Smt. Babli and another

...Appellants

Versus

Dushyant and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Vishwajeet Mehla, Advocate
for Mr. H.S. Dhillon, Advocate for the appellants.

Mr. Rajesh K. Sharma, Advocate for respondent No. 3.

C.M. No. 18663-CII of 2019 and
C.M. No. 18664-CII of 2019

There is delay of 27 days in re-filing the appeal and 454 days in filing of the appeal.

For the reasons mentioned in the application, the application is allowed and such delays stand condoned.

FAO No. 5593 of 2019

On account of death of one Sunil Kumar, aged about 21 years, in a motor vehicular accident which took place on 15.3.2016 at about 1.00 P.M near water distributory towards village Teontha on Karnal-Pundri road caused due to rash and negligent driving of open body Truck/Dumper bearing Registration No. HR65-6594 by respondent No. 1 Dushyant, parents of said deceased namely Smt. Babli, aged about 40 years and Prem Singh,

father had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against Dushyant, Driver, Ashoka Constructions Company, Kurukshetra, owner and United India Insurance Company Limited, Kaithal, insurer of the said open body Truck/Dumper.

The Motor Accident Claims Tribunal, Kaithal had decided the said claim petition and vide Award dated 31.10.2017 compensation of Rs.15,64,300/- was granted with interest at the rate of 9% per annum payable by all the three respondents jointly and severally.

The respondent Insurance Company felt aggrieved by the Award and had preferred an appeal before this Court bearing FAO No. 1270 of 2018 (O&M). It was decided on 1.3.2018 and compensation awarded was reduced to Rs.12,39,600/- and rate of interest was kept intact.

By way of filing the present appeal, the appellants claimants seek enhancement of the compensation, which request is being opposed on behalf of respondent Insurance Company.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the appellants has confined his prayer for Award of compensation under the Heads loss of consortium, which according to him needs to be granted to parents of the deceased to the extent of Rs.40,000/- each. In terms of judgments “***United India Insurance Co. Ltd. Versus Satinder Kaur @ Satwinder Kaur and others 2020(3) R.C.R. (Civil)***” 75 as well as “***Magma General Insurance Co. Ltd. Versus Nanu Ram Alias Chuhru Ram and Others 2018(4) R.C.R. (Civil) 333***”. Learned counsel for the Insurance Company in all fairness has admitted this legal position.

Accordingly, the appeal is disposed of granting additional compensation of Rs.80,000/- (Rs.40,000/- for each of the appellant) payable by all the three respondents jointly and severally with interest at the rate of 7.5% per annum from the date of filing of appeal i.e. 24.7.2019 till actual realization, with costs of the appeal.

(H.S. MADAAN)
JUDGE

November 17, 2022

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No