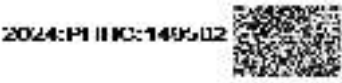
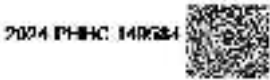


FAO-1478-1994 (O&M)



FAO-1056-1994 (O&M)



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

Decided on 16.10.2024

FAO-1478-1994 (O&M)

Raj Kumari & ors.

....Appellants

Versus

Mahabir Parshad & ors.

....Respondents

FAO-1056-1994 (O&M)

Sham Sunder (deceased) through his LRs. & anr.

.... Appellants

Versus

Vidya Wanti & ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Jagdish Manchanda, Advocate
for the appellants (FAO-1478-1994)
for respondents No.3, 4, 5 & 8 (FAO-1056-1994)

Mr. N.K.Malhotra, Advocate
for the appellants (FAO-1056-1994)
for respondents No.3 & 4 (FAO-1478-1994)

Mr. Suvir Dewan, Advocate
for respondent No.5-Inc. Co. (FAO-1478-1994)
for respondent No.7-Inc. Co. (FAO-1056-1994)

FAO-1478-1994 (O&M)

2024-PHHC-149502



FAO-1056-1994 (O&M)

2024-PHHC-149504



Mr. Gurpreet Jayia, Advocate
for respondents No.6 & 7 (FAO-1478-1994)
for respondents No.1 & 2 (FAO-1056-1994)
(Legal Aid counsel).

None for respondent Nos.1 & 2
(FAO-1478-1994)

None for respondent No.6
(FAO-1056-1994)

PANKAJ JAIN, J.(ORAL)

CM-9766-CII-2024 in FAO No.1056-1994

Exemption application is allowed, as prayed for.

CM-9767-CII-2024in FAO No.1056-1994

This is an application for bringing on record the LR's of appellant namely Sham Sunder who is stated to have unfortunately expired on 04.08.2012.

In view of the averments made in the application, the same is allowed subject to all just exceptions. Person mentioned in para No.1 of the application is impleaded as LR's of the deceased-appellant-Sham Sunder. Amended memo of parties is taken on record.

CM-9768-CII-2024 in FAO No.1056-1994

This is an application seeking condonation of delay of 3012 days in filing the present application.

FAO-1478-1994 (O&M)

2024:PHHC:1495:02



FAO-1056-1994 (O&M)

2024:PHHC:1495:04



For the reasons recorded, the application, this Court is satisfied that the applicant-appellant has shown sufficient cause to condone the delay in filing the application.

Application is allowed. Delay in filing the application is condoned.

CM-9769-CII-2024 in FAO No.1056-1994

For the reasons recorded, the application is allowed. Appeal is restored to its original number.

Main cases

- 1 These two appeals are against the same award.
- 2 Claimants seek enhancement of compensation in **FAO No.1478 of 1994.**
- 3 **FAO No.1056 of 1994** is at the behest of owner of the vehicle who has been saddled with the liability to pay compensation.
- 4 The accident in question involves truck owned by appellant which struck against trees on the road side owing to rash and negligent driving of respondent No.1- FAO1478-1994 and respondent No.6-Mahabir Parshad (FAO-1056-1994). Thus, so far as issue of rash and negligent driving is concerned, in the absence of there being any technical snag or the act of God there cannot be any other conclusion but that the driver was rash and negligent.



5 The deceased were travelling in the truck as passengers. Tribunal has held owner liable for the reason it was one of the stipulated condition in the policy that the insurance will not cover passengers in the vehicle.

6 Learned counsel for owner is not in a position to dispute that the insurance policy was proved on record as Ex.R-1. The policy explicitly provided for limitations as to use which read as under :-

“Limitations as to use:-

Use only for carriage of goods within the meaning of Motor Vehicles Act.

The policy does not cover.

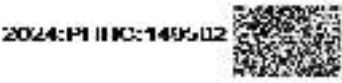
1) Use for organised racing, pace-making, reliability trials or speed testing.

2) Use whilst drawing a trailer except the towing (other than for reward) of any one disabled mechanically propelled vehicle.

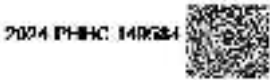
3) Use for carrying passengers in the vehicle except employees (other than the driver) not exceeding six in number, coming under the purview of workman’s compensation Act, 1923.”

7 In view of above, no fault can be found with the findings recorded by the Tribunal absolving insurer which is in terms of the contract of insurance.

8 Resultantly, **FAO No.1056 of 1994** preferred by the owner is ordered to be dismissed.



FAO-1056-1994 (O&M)



9 Coming on to the appeal preferred by the claimants bearing **FAO No.1478 of 1994**, the award passed by the Tribunal needs to be modified as under :-

Details	Before the Tribunal	Compensation claimed as per judgments of SarlaVerma, Pranay Sethi & Magma General Insurance
Income	Monthly : Rs.2,449/- Annual : Rs.29,388/-	Monthly : Rs.2,449/- Annual : Rs.29,388/-
Deduction	1/3	1/4 th (9551/-)
Future prospects	NIL	30% (Rs.38,204/-)
Multiplier	16	14 (Rs.4,01,142/-)
Loss of estate	NIL	Rs.18,000/-
Funeral expenses	NIL	Rs.18,000/-
Loss of consortium	Parental – Fillial – Spousal’s -	Rs.48,000/- x 6 = Rs.2,88,000/-
Total compensation	Rs.3,13,600/-	Rs.7,25,142/-
Interest		

10 Appeal bearing **FAO No.1478 of 1994** stands disposed off.

16.10.2024
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

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