



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
231 **FAO-5877-2016(O&M)**
Date of decision: 19.03.2025

RSRTC (Rajasthan State Road Transport Corporation), Jaipur
...Appellant(s)

Vs.

Shiv Kumar & Others
...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Radhe Shyam Sharma, Advocate
for the appellant.

NIDHI GUPTA, J.

CM-20075-CII-2016

This is an application under Section 5 of Limitation Act
for condonation of delay of 111 days in filing the appeal.

After going through the contents of the application,
which is supported by affidavit of the applicant, the same is allowed subject
to all just exceptions and delay of 111 days in filing the present appeal is
condoned.

MAIN CASE

Present appeal has been filed by the owner of bus
bearing registration No.RJ-14-PB-6683 (hereinafter referred to as "the
offending vehicle") against Award dated 23.09.2015 passed by Motor
Accident Claims Tribunal, Rewari whereby in case MACT No.488 of 2012
filed by claimants/respondents No.1 and 2 herein, under Section 166 of the
Motor Vehicles Act, the learned Tribunal awarded compensation of
Rs.6,58,100/-along with interest @ 7% per annum from the date of filing



the petition till the date of realisation. The 2 claimants are the parents of the 13-year-old deceased, namely Anshul. The appellant and respondents No.3 and 4 were held to be jointly and severally liable to pay the aforesaid compensation.

2. The only ground on which learned counsel for the appellant has challenged the impugned Award is that the learned Tribunal has awarded excessive amount of compensation as, as per judgment of Hon'ble Supreme Court in **"Kishan Gopal & Another Vs. Lala & Others"** (2014) 1 SCC 244, maximum amount of Rs.5 lakh could have been awarded to the claimants. Moreover, the learned Tribunal on the basis of evidence found that the driver of the offending vehicle was having genuine, valid and effective driving licence; and route permit and fitness certificate. It is submitted that despite this, the appellant along with respondents No.3 to 5 herein have been held jointly and severally liable to pay the amount of compensation; whereas the appellant can be held liable only under the category of "no liability".

3. No other argument is made on behalf of the appellant.

4. I have heard learned counsel for the appellant and perused the case file in great detail.

5. I find no merit in the submission made by learned counsel for the appellant as, in contending that excessive amount of compensation has been awarded to the claimants, learned counsel has relied upon judgment of the Hon'ble Supreme Court in **Kishan Gopal**



(supra), wherein compensation amount of Rs.5 lakh was awarded with interest @ 9% per annum; whereas in the present case, compensation of Rs.6,58,100/- has been awarded along with interest @ 7% per annum. Admittedly, in the relied upon case, the accident had taken place on 19.07.1992; whereas in the present case, the date of accident is 16.11.2012 i.e. almost 20 years thereafter. Therefore, the amount of compensation awarded in both cases cannot be equated. Furthermore, in the relied upon case, the deceased was 10 years old; whereas in the present case the deceased was 13 years old. Another distinguishing factor is that in the relied upon case, the 10-year-old deceased was helping his father in agricultural work and the deceased was not studying; whereas in the present case, the deceased was going to school and studying in class 8th.

6. Furthermore, a Co-ordinate Bench of this Court in **FAO-5195-2015 “Maimuna & Another Vs. Ibrahim & Others”** decided on **10.12.2019**, where the deceased was 15 years old, held the claimants/parents of the deceased, entitled to compensation of Rs.6,60,000/-. In another case, this Court in **FAO-5352-2012 “Mahavir Singh & Another Vs. Vinod Kumar & Others”** decided on **19.01.2024**, where the deceased was 10 years old, held the claimants entitled to compensation of Rs.6,99,000/-.

7. Learned counsel for the appellant is unable to dispute or controvert the aforesaid legal position.

8. In view of the above, present appeal is **dismissed**.



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9. Pending application(s) if any also stand(s) disposed of.

19.03.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No