

(2014) 02 P&H CK 0137

In the Punjab And Haryana At Chandigarh

Case No : F.A.O. 698 of 2014 (O and M) (M.A.C.T. Case No. 82 of 4.2.2013)

New India Assurance Co. Ltd.

APPELLANT

Vs

Meenu Goyal

RESPONDENT

Date of Decision : 12-02-2014

Acts Referred:

Citation : (2014) 2 RCR(Civil) 445

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : R.S. Madan, Advocate for the Appellant

Judgement

Jitendra Chauhan, J.

Applications for condonation of delay.

For the reasons mentioned in the applications, the same are allowed. The delay of 7 days in refiling and 101 days in filing the appeal is hereby condoned.

Main appeal

1. The present appeal has been filed by the Insurance Company assailing the award dated 29.5.2013, passed by the Motor Accident Claims Tribunal, Faridabad (for short "the Tribunal"), vide which, a sum of Rs. 41,00,000/- has been awarded to the claimants-respondent Nos. 1 to 4 and the Insurance Company alongwith the driver and owner has been held liable to pay the compensation. Learned counsel for the appellant contends that the income of the deceased assessed by the learned Tribunal is on the higher side. He refers to the ITR statement of the year 2010-11 and states that there is increase in the income of the deceased. The assets of the business will remain with the family of the deceased and therefore, only loss of managerial loss would accrue to the family. There is no financial loss to the appellants.

2. I have heard the learned counsel for the appellant and perused the case file.

3. It is to be seen that the deceased was a qualified person and had been running an engineering enterprises and providing a specialisation need of his customers. The income assessed on the returns filed subsequent to the death cannot be considered against him. The income is the result of the efforts, made by him during his life time. The argument that the assets will remain with the family is not sustainable, as the assets have been created on the strengthen of specialisation skill and knowledge of the deceased. Therefore, no fault can be found with the view taken by the learned Tribunal with regard to the income of the deceased.

4. No other point is raised.

5. In view of the above, this Court finds no merits in the present appeal. Accordingly, the instant appeal is dismissed. However, the statutory amount deposited by the appellant at the time of filing the appeal be sent to the learned Tribunal for disbursement to the claimants.