

**F.A.O. No. 599 of 2007 and
Cross-Obj.No.58-CII of 2007**

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

**F.A.O. No. 599 of 2007 and
Cross-Obj.No.58-CII of 2007**

Date of Decision : 30.9.2008

National Insurance Company Ltd., Chandigarh

....Appellant

Versus

Balwinder Kaur and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.Deepak Suri, Advocate
for the appellant.

Mr.N.S.Sodhi, Advocate
for respondent No.1 & L.Rs. of
respondent No.2 – cross-objectors.

Respondents No.3 and 4 ex-parte.

Mr.D.P.Gupta, Advocate
for respondent No.5.

MAHESH GROVER. J.

The appellant is the insurance company which is aggrieved
by the award dated 28.9.2006.

In this appeal, which is arising out of the accident
between two vehicles i.e. bus No.PAB-7344 and Tata Sumo No.HR-
23-A-5227, the appellant-insurance company has contended that since
the driver of Tata Sumo was held guilty of contributing to the
accident, therefore the appellant being the insurance company of the
said vehicle was not liable to satisfy the award to the extent of 50% as

determined by the Tribunal in view of the fact that the deceased himself was the tort-feasor.

The contention of the learned counsel for the appellant is worth acceptance as it is a settled law that a person who is at fault himself cannot be compensated for his own wrongs. In this view of the matter, it is held that the appellant shall not be liable to satisfy the award in the case of death of Kulwant Singh.

The claimant in this case was the mother of the deceased who has also filed cross-objections seeking enhanced compensation. The Tribunal awarded a sum of Rs.1,50,000/- to the appellant-claimant on account of death of Kulwant Singh. An amount of Rs.10,000/- was also awarded on account of funeral expenses and loss of love and affection. Even though an amount of Rs.2,400/- was assessed as income of the deceased and dependency at Rs.1,000/- per month, but thereafter the Tribunal simply awarded a lumpsum compensation of Rs.1,50,000/- to the claimant-

I have heard the learned counsel for the cross-objectors and have perused the award.

The accident in question took place in the year 2000 when the deceased was driving a Tata Sumo. In this eventuality, it would be expected that he would be earning Rs.3,000/- per month by working as a driver. 1/3rd deduction can be made on account of his personal expenses and in this manner the dependency would be worked out to Rs.2,000/- per month, or Rs.24,000/- per annum. He was aged 25 years. Considering the fact that his parents were dependent upon him (his father was initially the claimant but died during the pendency

of the claim petition) it was expected that he would have taken care of his old mother at least for 10 years. In this manner, after applying a multiplier of 10, the compensation works out to Rs.2,40,000/-.

The amount awarded under the head love and affection is also grossly inadequate. As the deceased was the only son of his parents, the amount under this head is enhanced to Rs.50,000/-. Thus, the total compensation comes to Rs.2,90,000/-.

The enhanced amount of compensation shall be paid to the cross-objectors alongwith interest @ 9% per annum from the date of filing of the claim petition till the date of realisation.

In so far as the liability to satisfy the award in the case of death of Kulwant Singh is concerned, since the appellant has been absolved of its liability to pay 50% of the amount as determined by the Tribunal, the respondent No.3 i.e. insurance company of the bus shall be liable to satisfy the award to the extent of 50%.

Disposed of.

30.9.2008

(MAHESH GROVER)
JUDGE

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