

**Kirna Devi Vs. Talab Singh and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/900000](http://sooperkanoon.com/900000)

**Court :** Jammu and Kashmir

**Decided On :** Oct-10-2002

**Reported in :** 2003(1)JKJ434

**Judge :** T.S. Doabia, J.

**Acts :** Workmen's Compensation Act

**Appeal No. :** CIMA No. 211/2002 and CMP No. 300/2002

**Appellant :** Kirna Devi

**Respondent :** Talab Singh and anr.

**Advocate for Def. :** P.S. Bhardwaj, Adv. for Respondent No. 1 and; Sunil Malhotra, Adv. for Respondent No. 2

**Advocate for Pet/Ap. :** Raghu Mehta, Adv.

**Judgement :**

**T.S. Doabia, J.**

1. The Commissioner under the workmen's Compensation Act, has dismissed the claim petition preferred by the widow of the deceased. The petition was filed before the above authority. It was pleaded therein that Kuldeep Raj was engaged as a Labourer viz; he was working on a Tractor Trolley attached with a vehicle

bearing Registration No. JK02H/8975 the deceased received injuries, which resulted in his death on 28-05-1998. The accident had occurred on that very date. The deceased had gone to collect clay from Najwal. When the Trolley was being loaded a rock, came down, as indicated above, this caused bodily injury on Kuldeep Raj, as a result whereof he died. His widow filed a claim petition. This was rejected, inter alia, on the plea that the claimant had failed to specify the Trolley number, the tractor number and the name of the owner thereof. It has also been observed that registration numbers were not given in the FIR. The description of the owner of the tractor given as Talab Singh was found to be vague, and it was on this premises that the respondents were absolved of the liability.

2. The Legislation, which deals with awarding of compensation under the workmen's Compensation act is not to be interpreted in a rigid manner as has been done by the Commissioner under the workmen's Act. As per Counsel for the petitioner, the description vehicle was given. The tractor number has been mentioned in the FIR the name of the Driver was also given. In any case, once the identity of the vehicle is identified by giving its registration number, then the other particulars are insignificant circumstances. These are matters on which investigation could be done by the Police authorities and the ownership of the vehicle could be very well be traced out. Once the registration number of the vehicle is given and that is found to be involved in the accident, then there was absolutely no justification to record a finding that the particulars given by the appellant were insufficient to record a finding in favour of the claimant/appellant. The appellant when she appeared in the witness box had stated that her husband was working with respondent No. 1.

3. It is not disputed that the vehicle in question stood insured with respondent No. 2 insurance Company.

4. After having heard learned counsel for the parties and perusing the record made available by the learned counsel for the parties, I, am, of the opinion, that the view expressed by the commissioner is a view, which can be sustained. Too technical a view has been taken. Once description of the vehicle is given in the FIR, then it was a mere formality to trace out the owner thereof.

5. In view of the above, the finding recorded by the Commissioner under the workmen's Compensation Act, are hereby reversed as a result of reversal of the above findings, the other consequence visa-vis grant of compensation would have to follow. In a death case, the compensation which is allowed upto the age of 35 years is Rs 197000/- . This is the quantum fixed under the Statute. This is being taken note of and this much compensation is allowed to their claimant appellant. This amount would be paid by respondent No.2 Insurance company. This is because the vehicle stood duly insured with the insurance company. The rate of interest would be 12% per annum from the date of filling of claim petition. Let the said amount be deposited with the Registrar Judicial of this court by the Respondent No.2 within a period of six weeks from today. In the event of failure to do so within the above stipulated period, the amount would carry interest 3% over and above aforesaid awarded rate of interest. Out of the said amount, two Fixed Deposit Receipts would be prepared; one Fixed Deposit Receipt would be to the tune of 20% of the amount. This would be taken for a period of six months and the other Fixed Deposit Receipt of the Remaining 80% amount would be taken for a period of three years. The two Fixed deposit Receipts would be obtained from the State Bank of India, Gandhi Nagar Branch, Jammu and thereafter handed over to the claimant after the proper identification. The appellant Claimant would be entitled to receive quarterly interest on the Second Fixed Deposit Receipt to be taken for three years duration. In case the claimant is able to make out a case for release of further amount, she is left to prefer an application after two years, seeking clarification from this court. 5. Disposed of accordingly alongwith the connected CMP.