

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4408-2016

Date of Decision:- 06.10.2017

Sushila Devi

.....Petitioner

Versus

Jasveer Singh and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Agnihotri, Advocate
for the petitioner.

Mr. Vijay Pratap Singh, Advocate
for respondent No.1.

Mr. R.C. Gupta, Advocate
for respondent No.2.

RITU BAHRI, J. (Oral)

Present petition has been filed under Article 227 of the Constitution for setting aside the impugned order dated 29.02.2016 (Annexure P-1), passed by learned Motor Accident Claims Tribunal, Ambala, vide which the claim petition has been ordered to be dismissed as withdrawn but liberty was not granted to file fresh one on the same of cause of action.

Brief facts of the case are that on 26.05.2015, deceased Anil Sharma along with one Jasveer Singh were going to Raipur Rani, District Panchkula from Saharanpur on Motor Cycle bearing registration No.UP-

11-AE-1477, Make Bajaj Pulsor-150, Black in Colour. The said motor cycle was being driven by Jasveer Snigh at a normal and moderate speed on due left hand side of the road, by observing that all the traffic rules and the deceased was sitting on pillon rider. When they reached near village Ambli, Police Station Naraingrah, District Ambala, all of sudden a stray cow (neel gay) came on the road and in order to save the cow, Jasveer Singh immediately stop his motor cycle and due to the sudden break, the pillon rider (deceased) jumped and fell down on the road and sustained serious, grievous and multiple injuries on various vital parts including head injury and due to that injuries the blood oozing from his ears and nose. Thereafter, ambulance reached at the spot and Jasveer Singh took the deceased to the Civil Hospital, Naraingarh, where the doctor declared him dead due to his injuries. The police lodged the DDR No.28 dated 26.05.2015 in this regard. Thereafter, the petitioner has filed a claim petition under Section 163-A of the M.V., Act.

Learned counsel for the petitioner submits that while preparing the evidence he came to know that income of deceased has been written as ₹12,000/- per month in the column No.6 of the claim petition inadvertently whereas the same is ₹3,200/- per month and thereafter, he moved an application for amendment on 20.02.2016. Subsequently, on his request, the claim petition has been withdrawn, vide order dated 29.02.2016, however, he has not granted liberty to file fresh claim petition on the same cause of action.

After hearing the learned counsel for the parties, going the impugned order, this Court is of the considered view that the learned

Tribunal has not considered the facts of the present case properly and wrongly passed the impugned order. Moreover, since the present petition is under Section 163 A of the M.V. Act., therefore, the impugned order dated 29.02.2016 (Annexure P-1), passed by the Motor Accident Claims Tribunal, Ambala, is hereby set aside and a liberty is granted to the petitioner to file fresh claim petition on the same cause of action, without prejudicing her rights.

Allowed.

October 06, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No