

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

(1) FAO No.2099 of 2000 (O&M)
Decided on:-January 16, 2017.

Nirmal Kaur and others

.....Appellants.

Versus

Mohan Lal and others

.....Respondents.

(2) FAO No.2100 of 2000 (O&M)

Gurbax Singh.

.....Appellant.

Versus

Mohan Lal and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Jatinder Nagpal, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for respondent No.2-insurance company.

HARI PAL VERMA, J.

By way of this common order, the aforementioned two appeal are being disposed of as the same have arisen out of the award dated 22.04.2000 passed by learned Motor Accidents Claims Tribunal, Patiala (for short, the Tribunal) in two claim petitions under Section 166 of the Motor

Vehicles Act 1988 (for short, the Act) preferred by the appellants-claimants on account of death of Gurcharan Singh, who was son of claimants Nirmal Kaur and Gurbax Singh and brother of claimants Devinder Kaur, Navdeep Kaur and Ravneet Kaur.

However, for convenience and clarity, the facts have been taken from *FAO No.2099 of 2000* titled as ***Nirmal Kaur and others Versus Mohan Lal and others.***

Briefly stated, facts of the case are that on 5.6.1995, Gurcharan Singh left his house at 07.45 AM to attend his job at Hassanpur Milk Factory. But at 08.30 AM, the claimant was informed that her son had been killed in an accident with a tractor bearing registration No.PB-13C-1642 near 3rd Jhill Petrol Pump, Sirhind Road, Patiala. Claimant Nirmal Kuar and her husband Gurbax Singh rushed to the spot. By that time, the injured was taken to Rajendra Hospital, Patiala from where he was further referred to PGI, Chandigarh, where he died. The offending vehicle was being driven by respondent Mohan Lal. Deceased Gurcharan Singh was 19 years old and was earning Rs.2,000/- per month as salary being a worker at Hassanpur Milk Factory. He was also earning Rs.3,000/- per month from the part time. Thus, his income was Rs.5,000/- per month.

Separate claim petition was filed by Gurbax Singh, being father of deceased Gurcharan Singh. He pleaded that he was dependent upon deceased Gurcharan Singh.

On the basis of pleadings of the parties, issues were framed by

the Tribunal. One of the issues framed by the Tribunal i.e. issue No.1 in the claim petition titled as “Nirmal Kaur and others Versus Mohan Lal and others” reads as under:

- 1. Whether Gurcharan Singh died in the motor vehiclular accident caused due to the rash and negligent driving of Mohan Lal respondent No.3 of tractor No.PB-13C-1642 in the area of Jhill Petrol Pump, Sirhind Road, Patiala on 5.6.1995 at about 8.30 AM? OPP*

Similarly, one of the issues framed by the Tribunal i.e. issue No.1 in the other claim petition titled as “Gurbax Singh Versus Mohan Lal and others” reads as under:

- 1. Whether respondent No.1 caused the death of Gurcharan Singh by driving tractor No.PB-13C-1642 negligently? OPP*

Both the claim petitions were consolidated. Vide award dated 22.4.2000, the Tribunal had allowed the claim petitions to the extent of no fault liability of Rs.50,000/- only to which all the claimants were held entitled in equal shares. The said finding was recorded by the Tribunal as while reporting the matter to the police by way of DDR Ex.P1, claimant Gurbax Singh had reported that the tractor bearing registration No.PB-13C-1642 along with trolley came and the scooter of his son hit the front tyre of the tractor and his son suffered injuries. The owner of tractor had brought the injured to Rajendra Hospital, Patiala and got him admitted, but due to multiple injuries, he was referred to PGI, Chandigarh where he died on 6.6.1995. Thus, the occurrence had taken place all of a sudden and in a natural manner. As such, as per the first information given by claimant

Gurbax Singh, there was no fault of the driver of tractor. In view of the DDR, post-mortem examination of deceased Gurcharan Singh was also not conducted. The Tribunal further held that the evidence of Bakhshish Singh is also an after-thought. The claimants have failed to prove that Gurcharan Singh died in a motor vehicular accident caused due to rash and negligent driving of tractor bearing registration No.PB-13C-1642. Accordingly, the Tribunal had awarded Rs.50,000/- on account of no fault liability.

Learned counsel for the appellants-claimants has argued that out of total amount of Rs.50,000/-, a sum of Rs.20,000/- has already been paid. He has further contended that since the other claimants are sisters of deceased, who were unmarried at the time of filing of claim petition and now, they are married and financially well, the balance amount of Rs.30,000/- may be ordered to be disbursed to the claimants, namely, Nirmal Kaur and Gurbax Singh, who are mother and father of the deceased.

Learned counsel for the respondent-insurance company has submitted that the insurance company has already deposited a sum of Rs.50,000/- with the Tribunal on account of amount of award vide cheque dated 21.6.2000. He has further submitted that the respondent-insurance company has no objection in case the balance amount is ordered to be paid to the claimants Nirmal Kaur and Gurbax Singh.

I have heard learned counsel for the parties.

In view of the conceded position of facts where the respondent-insurance company has no objection in case the balance amount is ordered to

be paid to claimants Nirmal Kaur and Gurbax Singh, there is no merit in the present appeals and the same are dismissed. Accordingly, the award dated 22.04.2000 passed by the Tribunal is modified to the extent that the remaining amount of Rs.30,000/- lying deposited with the Tribunal shall be disbursed to the claimants Nirmal Kaur and Gurbax Singh in equal shares.

Photocopy of this order be placed on the file of other connected case.

January 16, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No