

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

**FAO No.2587 of 2006 (O&M)
Date of Decision: January 19, 2017**

Kartar and another

..Appellant(s)

Versus

Narender Kumar and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Divya Godara, Advocate
for the appellants.

Mr. Dheeraj Narula, Advocate
for respondent no.2.

Mr. R.N. Singal, Advocate
for respondent no.3.

ANITA CHAUDHRY, J.

This is the claimants' appeal whose claim petition was dismissed by the Motor Accident Claims Tribunal, Sirsa on 01.08.2005.

A claim petition had been filed under Section 163-A of the Motor Vehicle Act seeking compensation for the death of Jot Ram s/o Sorath Ram. The appellants claimed that they were the brother and sister of Jot Ram. It was claimed that the deceased used to earn Rs.3,000/- per month as salary from his employer where he was working as conductor on a canter. He was also earning Rs.100/- per day

as daily allowance and whenever he visited out station and in this manner, he was earning Rs.4,500/- per month. The accident took place on 04.11.2001 at about 4:30 A.M. No FIR was lodged but a Rapat was entered. It was claimed that the facts had been distorted therein. No other details were given with respect to the other family members.

The respondents denied the fact that Jot Ram was a conductor on the canter. The insurance company took the plea that they had made inquiries and had found that Jot Ram was married to Ram Piyari d/o Bhanu Ram who had gone back to her parent's house after the death of Jot Ram and the claimants who were claiming themselves to be the brother and sister respectively of Jot Ram were not entitled to any compensation in the presence of the wife. It was pleaded that Jot Ram was married prior to his death as it was revealed during inquiry and the claim petition was liable to be dismissed for non-joinder of necessary parties. The insurance company then sought amendment and filed the amended written statement and it was pleaded that the appellants had suppressed material facts claiming that the appellants were the son and daughter of Sorath whereas they were the son and daughter of Diwan Chand and Sorath & Diwan Chand were real brothers.

Both the parties led evidence and the Tribunal dismissed the claim petition on the ground that the claimants were not the brother and sister of Jot Ram or the son and daughter of Sorath Ram. The submission that Jot Ram was working as a conductor was also

disbelieved in view of the evidence led by the Insurance Company. Issue no.1 & 2 were decided against the claimants and the claim petition was dismissed.

The records had been destroyed in a massive fire. Whatever material was available with the claimants was produced on record with the entire pleadings and the evidence. The copy of the DDR is available with the appellants and has been placed on record today.

I have heard both the sides at great length and I find that there is no merit in the appeal. The claimants were unable to prove that they were the brother and sister of Jot Ram. The claimants had intentionally not impleaded the widow of Jot Ram as the truth would have come out. The insurance company had summoned the Clerk from the Food & Supply Department who had brought the original form submitted by Kartar Chand son of Diwan Chand. The witness had stated that the photograph of the family was affixed on the ration card and as per their record, the name of Jot Ram s/o Sorath Ram was not mentioned in form Ex.D-1.

Kartar Chand is one of the claimants. He himself had filled the form Ex. D-1. No document could be produced to show that Sorath Ram was also known as Diwan Chand.

The claim petition could not have been filed under Section 163-A of the Motor Vehicle Act as the income claimed was over Rs.3,000/- per month. It is well settled principle of law that claim

petition u/s 163-A MV Act is for immediate relief to the section of people whose income is not more than Rs.40,000/- per annum. In the instant claim petition, the income of deceased is shown as Rs. 4,500/- per month i.e. with the annual income of Rs.54,000/-, which is beyond the specified annual income u/s 163-A MV Act and the second Schedule appended thereto. The claim petition does not fall within the ambit of Section 163-A MV Act. The claim petition was not maintainable u/s 163-A MV Act.

I see no infirmity in the findings recorded by the Court below. The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

January 19, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No