

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

CRA-S-1295-SB of 2011

Date of Decision: 23.04.2018

P.C. Wadhwa

....Petitioner

Versus

Rohit Sharma and others

....Respondents

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: None for the appellant.

Mr. A.S. Dhaliwal, DAG, Punjab.

Mr. Parveen Hans, Advocate
for respondent No.3.

MAHABIR SINGH SINDHU, J.(Oral)

The present appeal has been filed against the impugned order dated 11.08.2010 passed by learned Motor Accident Claims Tribunal, Panchkula (for short 'the MACT') vide which the application filed under Section 169 of Motor Vehicles Act, 1988 (for short 'the Act of 1988') read with Section 195/340 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for initiation of the proceedings against respondents No. 1 to 3 for commission of offence under Sections 193, 199, 471 and 120-B of the Indian Penal Code (for short 'IPC') was rejected by learned MACT.

Aggrieved against the order dated 11.08.2010, the appellant filed the present appeal and which is pending since February, 2011.

It has been pointed out by learned counsel for respondent No.3 that during the pendency of the appeal, the sole appellant died on 27.03.2014 and thus in view of the provisions of Sub Section (2) of Section 394 Cr.P.C, the present appeal stands abated.

There is no dispute that the sole appellant had died on

27.03.2014 and even no legal representative has been brought on record to pursue the same.

Section 394(2) of Cr.P.C. reads as under:

394. Abatement of appeals.

(1) XXXX

(2) Every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant: Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the Appellate Court for leave to continue the appeal; and if leave is granted, the appeal shall not abate.

Keeping in view the provisions of Sub Section 2 of Section 394 Cr.P.C. reproduced above, it is apparently clear that in case appellant dies, then appeal shall stand abated. Consequently, the present appeal stands abated and the same is disposed of as such.

Ordered accordingly.

[MAHABIR SINGH SINDHU]
JUDGE

April 23, 2018
rashmi

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no