

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO-5230-2002 (O&M)

Date of Decision: September 05, 2019

Mayapati and others

.....Appellants

VERSUS

Mohan Singh and others

.....Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Pankaj Midha, advocate
for the appellants.
Mr. R. K. Bashamboo, Advocate
for respondent No.4.

JAISHREE THAKUR, J.(Oral)

The instant appeal has been filed seeking to challenge the inadequate compensation as allowed by the Tribunal for the accident that took place on 10.09.1996 at about 7.30 a.m. . The deceased was traveling in a matador being driven by respondent No. 1 namely Mohan Singh. On account of the said accident, Piyare Lal, who was serving in the Haryana Police as Head Constable suffered serious injuries. His right eye was completely damaged, his jaw broken, his face dis-figured. He was referred to PGI, Rohtak, where he remained admitted for about ten days and spent ₹1 Lac on his treatment. He became permanently disabled and got retired from his service due to the injuries suffered.

The Tribunal by taking into account the evidence as produced awarded a sum of ₹ 25000/- on account of expenses of medicines and attendant charges, ₹5000/- towards pain and suffering and ₹5000/- as loss of income due to absence from duty. In all, the claimants who were the legal

heirs of Piyare Lal, who died during the pendency of the claim petition were awarded a sum of ₹35000/- as compensation.

Aggrieved against the said inadequate compensation, the instant appeal has been preferred. During the pendency of the appeal, an application under Order 41 Rule 27 has been filed with a prayer that an opportunity be given to the appellants to adduce evidence in respect of the injuries suffered by the deceased. It is contended that a medical certificate dated 24.02.1999 would reflect that he had suffered 30% disability in his eye, apart from other serious injuries. It is argued that Piyare Lal had died during the pendency of the proceedings of the claim petition and had stated in his evidence that he had suffered injuries on his eye, mouth, face and that his jaw had been completely broken and he was disfigured while submitting that he had remained admitted in hospital for ten days. However, on account of the fact that he died, the proper evidence could not be led and one opportunity should be allowed to the appellants to substantiate the plea that deceased Piyare Lal had suffered severe injuries.

The application is contested by the Insurance Company and a reply has been filed stating that the application had been filed at a belated stage and on their investigation, it had been found out that the medical record has been destroyed by the hospital and therefore, there is no ground made out to allow the said application.

I have heard learned counsel for the applicant-appellants and find that there are sufficient grounds made out to allow the application filed under Order 41 Rule 27 CPC.

A perusal of the award of the Tribunal would reflect that the

Tribunal has noted that there was no evidence on the record regarding any expenses or injuries as suffered by Piyare Lal. It is not in dispute that Piyare Lal, Head Constable died during the pendency of the proceedings before the Tribunal and therefore, the legal heirs were not in a position to produce evidence immediately thereafter. The Motor Vehicles Act and the compensation thereunder is in the form of a beneficial legislation and every effort should be made to ensure that the victim is allowed fair and just compensation on account of the death or injuries as suffered in an accident. By rejecting the application under Order 41 Rule 27 CPC, this Court would be doing great dis-service to the appellants who are none other than the legal representatives of Piyare Lal and therefore, it would be in the fitness of things if the said application is allowed. Consequently the matter is remanded back to the MACT, Jind to allow two effective opportunities to the appellants herein to adduce evidence. The Insurance Company would in turn be given two effective opportunities to cross-examine the said witnesses. On conclusion of the evidence the Tribunal to re-assess the compensation if so made out. The appeal is allowed in above terms.

Parties are directed to appear before the Tribunal on 16.10.2019, who would make an endeavor to conclude the proceedings within a period of 8 months thereafter, considering the fact that the accident took place in the year 1996.

September 05, 2019*seema***(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.

