

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

FAO-131-2012 (O&M)

Date of decision: 14.03.2019

Sukhdev Singh through his LRs

...Appellants

Versus

Ramesh Kumar

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Darshan Gulati, Advocate for
Mr. Vinod Bhardwaj, Advocate for the appellant.

Mr. Arvind Bansal, Advocate for respondent Nos.1 & 2.

Mr. Banni Thomas, Advocate for respondent No.3.

H.S. MADAAN, J. (Oral)

Sukhdev Singh had filed a claim petition through his wife Sunita Devi under Section 166 of the Motor Vehicles Act, against Ramesh Kumar-driver, Naresh Kumar-owner and Oriental Insurance Company Ltd. Kaithal-insurer of car No.HR-08G-6059, on the allegations that on 29.04.2009 at about 4 PM, in the area near Canal Bridge, Bhagal, respondent No.1 Ramesh Kumar by rash and negligent driving of car No.HR-08G-6059 had caused accident, in which Sukhdev Singh had suffered multiple grievous injuries.

After contest, the claim petition was allowed and compensation of Rs.5 lacs was awarded to claimant, payable by all the three respondents jointly and severally.

Appellant/claimant feeling dissatisfied with the amount of compensation awarded to him and has approached this Court by way of filing the present appeal, notice of which was given to respondents, who put in appearance.

I have heard learned counsel for the parties besides going through the record.

It may be mentioned here that injured Sukhdev Singh has died during pendency of the appeal. Now the question arises as to whether any cause of action survives to his legal heirs. The answer to this question is in negative. In **Kannamma Vs. Deputy General Manager, Karnataka State Road Trans. Corpn.,** 1991 ACJ 707, a Full Bench of High Court of Karnataka dealing with such type of question as to whether in case of claim for compensation for personal injuries and towards expenses etc., on death of claimant, the claim petition abates. The question was answered observing that whether the injured/claimant dies as a consequence of bodily injuries sustained in the motor accident, then, his legal representatives can prosecute the claim relates to loss to the estate of the deceased. In the present case, there is nothing on record to show that the appellant has died as a result of suffering injuries in the accident.

In **Smt. Ram Ashari and others Vs. HRTC and another,** 2005 (3) RCR (Civil) 128, this type of question cropped up before Himachal Pradesh High Court, which was answered observing that in case where appellant was injured in an accident, on his death during pendency of appeal for enhancement of compensation, the appeal abates,

since the appeal which was filed for personal injuries cannot be continued by his legal representatives. It was further observed that an action in torts for claim of compensation for damages on account of injuries suffered by an injured as a right personal to the injured and this right cannot be continued by legal heirs. To similar effect are other judgment i.e. **Bhagwati Bai and Anr. Vs. Bablu @ Mukund and Ors.**, 2007 (1) RCR (Civil) 723 by Full Bench of Madhya Pradesh High Court i.e. Gwalior Bench, **Divisional Manager, New India Assurance Co. Ltd., Namakkal Vs. S.V. Mani and others**, 2010 ACJ 1540 by Madurai Bench of Madras High Court. Therefore, the appeal cannot proceed further. Even otherwise, on merits also, I find that the compensation awarded by the tribunal is just and adequate and no reason is there to enhance it. There is no illegality or infirmity in the impugned award. The same is upheld.

Appeal stands dismissed accordingly.

14.03.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No