

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

FAO No. 1481 of 2012 (O&M)

Date of Decision: February 12, 2020

Usha Devi and others ...Appellants

Versus

Chatar Pal Singh Yadav and others ... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Ravi Malik, Advocate
for the appellants.

Mr. Manoj Kumar, Advocate
for the respondent No. 2.

FATEH DEEP SINGH, J. (Oral)

The present invocation is by then claimants Usha Devi and five others, the dependents of deceased Surender Singh. The appellants have challenged an award of the Motor Accident Claims Tribunal, Faridabad dated 15.10.2011, whereby the Tribunal has dismissed the claim of the claimants.

Heard Mr. Ravi Malik, Advocate for the appellants, Mr. Manoj Kumar, Advocate for respondent No.2 and perused the records.

One Smt. Usha Devi widow of Shri Surender Singh alongwith other dependents namely, Mamta, Rinku, Kavita and Ravita, four minor children and aged mother-Rama Devi filed

against Chatar Pal Singh Yadav and others a petition under Section 163-A of the Motor Vehicle Act (hereinafter to be referred as '**the Act**') for grant of compensation. The claim was based on the grounds that on 15.11.2006, Surender Singh was driving a crusher truck bearing No. HR-38L/6727 (hereinafter to be referred as '**the ill fated Truck**') and when he reached in the area of Pali Crusher Zone, a dumper bearing registration No. HR-38H-9100 (hereinafter to be referred as '**the Dumper**') came at a high speed being driven rashly and negligently and struck against the ill fated truck resulting in death of Surender Singh due to the accidental injuries on 22.11.2006 while under hospitalization. It is alleged that the dumper was being driven by one Islam who too died. An FIR bearing No. 411 dated 15.11.2006 under Sections 279, 337, 304-A IPC, Police Station Sadar Ballabgarh was registered pertaining to this accident.

The petitioners claimed that they had spend Rs.1,00,000/- on the treatment of the deceased besides special diet. It is claimed, the deceased, who was working as a driver was earning Rs.3,000/- per month and on account of his death the claimants were deprived of dependency and hence the claim was filed besides others against insurer M/s the New India Assurance Co. Ltd. (respondent No.2) and Chatar Pal Singh Yadav, the owner of the dumper (respondent No. 1.).

The Tribunal as per the impugned award while deciding issue No. 1 held that no eye witness of the accident

has been examined and the testimony of the claimant as PW1-Usha Devi being based on hearsay had dismissed the claim of the claimants.

In the light of the submissions of the counsel for the appellants and which could not be controverted on behalf of the respondent side, the FIR Ex.P3, which was got registered on the statement of Shakil Ahmad brother of deceased Islam, driver of the Dumper shows that the accident has been duly admitted, which is corroborated from the testimony of PW2 Constable Lalit Kumar and the resultant death on account of accidental injuries are brought about by PW3 Ram Dhan Singh, Technical Assistant/Record Keeper from GTB Hospital, Dethi, where deceased Surender Singh was got admitted and where he died as a consequence of these injuries. More so, the certified copy of the Award Ex.P2, whereby, the claim of the dependents of the deceased Islam were awarded compensation in the same very accident corroborates the fact and which is further proved by none other than respondents witness Mr. R.B. Sharma as RW1. It needs to be kept in mind that the Motor Vehicles Act, 1988 is a welfare statute for the betterment of the claimants where the stricter/principles of Evidence Act are not to be applied. The Act being a remedial statute and its object being more settled and need oriented and deserves to be understood in its widest import and liberal construction of the Act so as to secure compensation to the dependents in confirmation with the

settled principle of law and is clearly, *inter-se*, more to benefit the claimants and furthermore as has been the law laid down in Vol. II (1995) ACC, Guhati 188 **Union of India and another Vs. M/s Saraswati Debnath and others**, where it has been held that evidence in claim cases is not to be scrutinized in a manner as it done in a civil suit or a criminal case.

The exhibited documents by the two sides have been exhibited without opposition by any of the parties nor have been rebutted to show their falsity and, therefore, can be red into evidence as the proceedings are more of summary in nature. The submissions of the learned counsel for the respondent do not controvert the fact as to there being a head on collision between two vehicles and, therefore, does not require any proof of negligence since the petitioner has come about under the provisions of Section 163-A of the Act, which does not require proof of negligence for compensation for such deaths being based on structural formula and, therefore, is regardless of the fault of the victims. Reliance is placed on 1999 ACJ 1129 (Gujrat) **Ramdevsing V. Chaudasma Vs. Hansraj Bhai V. Kodala and another.**

Reverting back to the instant case, it is duly accepted that the deceased Surender Singh was driver of truck bearing registration No. HR38L-6727 and which is owned by Chatar Pal Singh Yadav then respondent No.1, which was insured with respondent No.2 M/s the New India Assurance

Company Limited. Furthermore, the truck bearing registration No. HR-38H-9100 is admitted to be owned by the then respondent No. 3 M/s Agro Engineering Works and insured with then respondent No.4 National Insurance Co. Ltd.

The deceased un rebuttedly was shown to be earning Rs.3,000/- per month which is a reasonable salary for a driver of a commercial heavy duty vehicle. The claimants admittedly and as proved by PW1 Usha Devi claimant are the widow, minor daughters and son as well as aged mother of the deceased Surender Singh and therefore by all means are the heirs and dependents of the deceased. The deceased at the time of death as per Ex.P4 postmortem report which is the only document of age proved on record and corroborates PW1 was aged about 35 years. The claimant widow too is aged less than that while all the children are minors and mother of deceased is aged between 50 to 55 years of age and keeping in view the law laid down in **National Insurance Co. Ltd Vs. Pranay Sethi and others,** SLP (Civil) No. 25590 of 2014 and applying the same to the instant case considering the law that the Schedule to the Act is mere of a guide and there can be special features of facts calling for deviation from the Schedule. Reliance placed on (2002) 6 SCC 281 **United India Insurance Co. Ltd. Vs. Patrica Jean Mahajan and others.** In view of the foregoing discussion and the law laid this Court holds that the claimants are entitled to lump sum compensation of Rs.15,00,000/-

(Rs. Fifteen lacs only.) after applying multiplier of 17 which is most appropriate, including medical expenses, loss of consortium, dependency, loss of love and affection, loss of estate, funeral expenses, physical/mental pain and agony. Besides this the claimants shall be entitled to interest on this amount @ 9% per annum from the date of filing of this petition till realization of the amount. Out of this keeping in view the relative ages of the claimants and their future requirements claimant widow and children will be entitled to 90% of the compensation amount while the mother of the deceased would get 10% of the compensation amount. Since many years have lapsed the compensation in case of any minor claimant shall be deposited by way of FDR to the extent of 50% of the share of that claimant till that claimant attains majority. In case of death of any of the beneficiaries his/her share shall go to his/her legal heirs as per law. The amount shall be paid jointly and severally by all the respondents. The entire compensation shall be paid initially by the insurers of the two vehicles reserving rights of recovery if so permissible under their respective insurance policies.

In the light of the above discussion, the instant appeal stands allowed. No costs.

February 12, 2020

amit rana

(FATEH DEEP SINGH)**JUDGE**

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No