

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

108

CWP-6498-2023

Date of Decision: 07.07.2023

BINDER KUMAR GOYAL AND ORS

....Petitioners

Versus

UNION OF INDIA AND OTHERS

...Respondents

CORAM:HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Rishab Gupta, Advocate for the petitioners.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J.(Oral)

Present writ petition has been filed under Article 226/227 of the Constitution of India seeking issuance of directions to respondents to pay compensation to the tune of Rs. 1 Crore on account of death of Amandeep Goyal (deceased) in a road side accident that occurred on National Highway-7.

It has been alleged that the accident took place on account of negligence on the part of the respondent-authorities in installing/setting down the basic precautionary barricading. In case due care, caution and road safety requirements have been complied with by the respondent as well as the concessionaire, the accident in question could have been avoided.

A perusal of the averments raised in the petition shows that the petitioner alleges that on the date of the incident i.e. 20.06.2022, deceased-Amandeep Goyal was coming from Bucho

Mandi alongwith his friend Keshav Singla in his Verna Car that had been purchased by him 20-25 days ago. The road in question had been dug beyond the traffic light point at NH-7. On reaching the bad patch, the car lost control and turned turtle. Amandeep Goyal suffered injuries and was taken to the nearby Hospital namely, Delhi Heart Centre by his friend who was following him in a separate car, however, he was declared brought dead. Photographs of the place of incident have also been appended. A perusal of the said photograph cannot ipso facto held to be sufficient to invoke the principles of strict liability and to fastened an absolute responsibility of respondent-NHAI. Disputed questions of fact as regards the deficiency/defect as well as negligence would arise for consideration of the Court in addition to the determination of quantum of compensation. All these aspects cannot be examined by this Court under Article 226. The petitioner would have an efficacious remedy to file a tortious claim for damages before a competent authority/competent Court in accordance with law.

In view of the above, the present petition is disposed of with liberty to the petitioners to take all pleas that may be available to him in addition to the assertions made in the writ petition.

[VINOD S. BHARDWAJ]
JUDGE

July 07, 2023

rashmi

Whether speaking/reasoned
Whether reportable?

Yes/no
Yes/no