

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

CM-68-CII-2023 in/and  
FAO-7134-2010 (O&M)  
Date of pronouncement: 28.02.2023

Geeta Rani and others

...Appellants

Versus

Mohindera Arun Bhagal and others

...Respondents

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

Present: Mr. Pritam Singh Saini, Advocate with  
Ms. Vibha Nagar, Advocate for the appellants.

Ms. Shamsheer Kaur, Advocate for respondent No.3.

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**H.S. MADAAN, J.**

**CM-68-CII-2023**

This is an application for fixing the main appeal in motion hearing. Keeping in view the averments in the application and considering the fact that the appeal relates to the year 2010, the same is allowed. With the consent of counsel for the parties, the hearing in the main appeal is preponed to today itself.

**Main Case**

Briefly stated facts of the case are that petitioner Labh Singh, an unfortunate victim of a road side accident had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') against respondents i.e. Mohindera Arun Bhagal-driver, Arun Sonar owner and Oriental Insurance Company Ltd., Ambala-insurer of

Mahindra Max Jeep bearing registration No.MH-18R-1037 (for brevity 'offending vehicle') claiming compensation. He had suffered injuries in a motor vehicular accident, which had taken place on 09.10.2007 at about 7.30 PM, statedly on account of rash and negligent driving of the offending vehicle by respondent No.1-Mohindera Arun Bhagal. One Pitamber @ Kalu who had suffered injuries in that very accident had also filed a claim petition against the respondents. However, during pendency of the petition, petitioner Labh Singh had expired and his LRs namely Geeta Rani and others, were brought on record. Since both the claim petitions arose out of the same accident, they were tried together by Motor Accidents Claims Tribunal, Ambala (for brevity 'the tribunal') and were disposed of, vide a single award dated 26.07.2010. Accordingly, compensation of Rs.3,82,000/- was awarded to claimants Geeta Rani and others with interest @ 7.5% p.a., from the date of filing of claim petition till actual realization. The liability to pay this amount was held to be joint and several of all the three respondents.

2. Finding the compensation so awarded to be on lower side, petitioners Geeta Rani and others have approached this Court by way of filing an appeal, notice of which was given to respondent No.3-insurance company and it has put in appearance through counsel.

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

4. The tribunal considering the facts and circumstances of the case and on the basis of evidence brought on record by the parties, had

come to the conclusion that the accident in which Labh Singh and Pitamber @ Kalu had suffered injuries was caused on account of rash and negligent driving of the offending vehicle by respondent No.1-Mohindera Arun Bhagal. Labh Singh, had later on succumbed to the injuries suffered in the accident, therefore, the driver, owner and insurance company of the offending vehicle were found liable to pay the compensation to the claimants Geeta Rani-widow, Ankush - minor son and mother Vidhya Devi, being legal representatives of Labh Singh injured and thus amount was quantified as Rs.3,82,000/-.

5. Learned counsel for the appellants has contended that Labh Singh had expired on account of suffering injuries in a motor vehicular accident, therefore, the compensation needs to be calculated as such. He has further contended that the tribunal has wrongly awarded compensation considering the injuries suffered by Labh Singh in the accident and not the ultimate death.

6. Whereas, learned counsel for insurance company has submitted that death of Labh Singh had no nexus with the injuries suffered by him in the accident inasmuch as he had not died in any hospital, no post mortem report is there showing the cause of death. She has referred to judgment **Praveena R. Doshi (D) through LRs Vs. Ganpat Parab & Anr.**, 2015 ACJ 1452 where in a claim petition filed by an injured/claimant who was awarded compensation by Motor Accidents Claims Tribunal, however, she had expired; her LRs had filed an appeal which was disposed of holding that when original claimant had been

awarded amount spent on medicines, treatment, accommodation etc., that entitlement was not challenged and appellants/LRs were held entitled for compensation.

7. The tribunal in para No.18 of the award has dealt with this aspect in a very detailed and appropriate manner coming to the conclusion that though the claimants had been able to prove that Labh Singh had suffered injuries in the accident, which took place on 09.10.2007 but they have not been able to prove that he had expired as a result of those injuries; for the reason that no post mortem report or any other evidence oral or documentary to establish that fact has been brought on record; the accident had taken place on 09.10.2007; Labh Singh had died on 17.01.2009. Therefore, it cannot be said that he had died due to the injuries suffered by him in the accident. As such compensation is to be calculated for the injuries suffered and not on account of death in the accident. The expenses incurred by the family of Labh Singh on treatment of Labh Singh were found to be payable to them. The compensation payable was arrived at in following manner:-

|   |                                                                   |                      |
|---|-------------------------------------------------------------------|----------------------|
| 1 | Medical expenses incurred on the hospital charges, medicines etc. | Rs.2,67,000/-        |
| 2 | Pain and suffering undergone by the Labh Singh and family         | Rs.1,00,000/-        |
| 3 | Expenses incurred on special diet/transportation/attendants       | Rs.15,000/-          |
|   | <b>Total</b>                                                      | <b>Rs.3,82,000/-</b> |

8. However, I find that such compensation awarded is somewhat on lower side. It is a matter of common knowledge that

practically it is not possible to keep account of each and every penny spent on medical treatment and to keep record of bills and cash memos for purchase of medicines and other requisite items for treatment of an injured.

9. The tribunal has awarded a sum of Rs.2,67,000/- towards medical expenses including hospital charges, medicines etc. In my considered view, this amount is required to be enhanced to Rs.4 lacs.

10. Some compensation for special diet and under the head travelling expenses needs to be awarded. A sum of Rs.50,000/- each is awarded under those heads. Further the compensation for hiring some attendant to help the injured in moving around also deserve to be given. Another sum of Rs.50,000/- is awarded to the claimants on that account whereas the injured must not have been able to work for sufficient time after suffering injuries and during the period of medical treatment. The claimants should be compensated for that.

11. The tribunal has awarded compensation of Rs.1 lakh towards pain and suffering undergone by Labh Singh and family. In my considered view with death of Labh Singh compensation under that head does not survive.

12. Towards loss of work and other misc., expenses, a sum of Rs.50,000/- is awarded to the claimants. Thus the total compensation is worked out to Rs.7 lacs. The claimants would be entitled to get interest on this amount @7.5% p.a., from the date of filing of claim petition till actual realization. The liability to pay this amount being joint and several of all the three respondents. The apportionment of compensation and

mode of payment would remain the same as directed by the tribunal in the impugned award.

13. The appeal stands partly allowed accordingly.

28.02.2023  
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(H.S. MADAAN)  
JUDGE

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