

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

FAO-5715-2014(O&M)

Reserved on:-4.5.2023

Date of Pronouncement:-15.5.2023

Bhupinder Singh and others

...Appellants

Versus

Sher Singh Ubhi and others

...Respondents

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

Present: Mr. Naresh Parbhakar, Advocate
for the appellants.

Mr.Ram Avtar, Advocate
for respondent No.2.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that petitioners/claimants Bhupinder Singh and five others had brought a claim petition under Section 163-A of the Motor Vehicles Act, 1988 against respondents i.e. Sher Singh Ubhi – driver-cum-owner and National Insurance Company Ltd., Ludhiana – insurer of car bearing registration No.PB-04G-0046, claiming compensation on account of death of Amarjit Singh, aged about 70 years in a motor vehicular accident, which took place on 22.2.2004 at about 4:30 p.m. in the area near Cantt. Railway Station, GT Road, when the car in question had struck against a truck, number of which could not

be recorded. The car was being driven by respondent No.1 Sher Singh Ubhi and DDR No.15 dated 23.2.2004 was recorded at Police Station Cantt. Amarjit Singh being in injured condition was taken to Johal Hospital, Rama Mandi, Jalandhar from where he was referred to DMC and Hospital, Ludhiana; he was discharged from that hospital and then taken to Apollo Hospital, Delhi on 7.3.2004 where he succumbed to the injuries on the same day.

2. After contest, the claim petition was dismissed by the Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as the Tribunal) vide Award dated 27.2.2013 on the ground of non-maintainability for the reason that deceased was having income of more than Rs.40,000/- per annum and claimants were claiming medical expenses more than Rs.15,000/-.

3. Such award left the claimants aggrieved and they have filed an appeal before this Court, notice of which was issued to the respondents. However, only respondent No.2 insurance company has put in appearance through counsel to offer a contest.

4. I have heard learned counsel for the parties besides going through the record and I find that the impugned award cannot stand judicial scrutiny and is liable to be set aside.

5. Learned counsel for the appellants/claimants has drawn my attention to the claim petition filed wherein against the column monthly income of the injured/deceased the wording mentioned is Rs.30,000/- per month. This seems to have created the whole confusion. But the mistake seems to be a bona fide because the income of deceased is mentioned to

be Rs.30,000/- per annum. Therefore, the approach of the Tribunal in dismissing the claim petition for the reason that income of the deceased was more than Rs.40,000/- per annum is not sustainable. Rather the claim petition is maintainable.

6. The claimants being the LR's of the deceased are entitled to get compensation from the respondents under Section 163-A of the Act since under that provision, the claimants are to show that death of Amarjit Singh had taken place in an accident arising out of use of a motor vehicle. The claimants have successfully proved that by examining HC Ram Krishan from P.S. Cantt. Jalandhar, who had brought the original DDR register containing entry No.15 with regard to the accident of car No.PB-04G-0046 pertaining to Amarjit Singh, proving its attested copy as Ex. PW2/1. PW2 Sh.R.N. Pandey, Senior Supervisor, Medical Record Department, DMC College and Hospital, Ludhiana brought the original record in the form of bills issued by their hospital relating to patient Amarjit Singh, who was admitted in their hospital on 21.2.2004 and total expenses incurred on the treatment were Rs.89,250/-. He proved the attested copy of the bills as Ex.PY and Ex.PZ and supporting receipts as Ex.PA to Ex.PL.

7. Learned counsel for the respondents had tendered documents only and then closed evidence.

8. Thus it comes out that Amarjit Singh had died due to injuries suffered in a road side accident as per version set up by the claimants. It being so, the claimants, who are LR's of the deceased are entitled to get compensation. As per Section 164 of the Motor Vehicles Act

notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.

9. It has been argued on behalf of the insurance company that Section 164 was introduced later on vide notification in the year 2018 and it does not apply to the cases relating to the accidents, which had taken place to earlier dates.

10. But I find that appeal is continuation of the proceedings before the Tribunal. This provision had come into being during pendency of the appeal proceedings. It is a piece of welfare legislation and it has to be interpreted in a manner, which is beneficial to the claimants, who have lost a family member in a road side accident.

11. Accordingly, the appeal is accepted. The award in the appeal is set aside and compensation of Rs.5,00,000/- with interest @ 7.5% per annum from the date of filing of claim petition till actual realization besides costs of the petition is awarded to claimants.

12. Of the compensation awarded, the liability shall be joint and several of both the respondents. The amount shall be apportioned amongst the legal representatives of the deceased as follows:

- | | | |
|--|---|----------|
| 1. Petitioner Nos.1, 3 to 6 (children) | - | 10% each |
| 2. Petitioner No.2 (widow) | - | 50% |

Since the main appeal stands accepted, the miscellaneous application(s), if any, stand disposed of accordingly.

15.5.2023

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No