

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

FAO No. 573 of 2016 (O&M)

DATE OF DECISION :- May 30, 2023

Sharda Sharma

...Appellant

Versus

Union of India and others

...Respondents

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

Present:- Mr. J.S. Mahal, Advocate for the appellant.

Ms. Gehna Vaishnavi, Advocate for respondent UOI.

1. Briefly stated the facts of the case are that on 12.10.2011 deceased Vinod Sharma along with Sanjeev Kumar son of Sh. Ashok Kumar were coming from Dhianpur to BSF Quarter Shikar Machian. They were riding motorcycle bearing registration No. UP-12-L-0602. The motorcycle was being driven by deceased Vinod Sharma, on which Sanjeev Kumar was pillion riding. At about 7.00 P.M when they had reached a little ahead of Adda Shikar Machian then as a result of flash of light from a vehicle coming from opposite direction, Vinod Kumar got blinded temporarily and the motorcycle struck against Army vehicle, which was parked on the road side by its driver Tika Bahadur Thapa.

2. Both the riders received injuries. The nature of injuries suffered by Vinod Sharma was serious whereas Sanjeev Kumar had suffered minor injuries. Vinod Sharma was taken to Amandip Hospital, Amritsar from where he was shifted to Guru Ram Dass Medical College and Hospital, where he died on 20.10.2011. A DDR No. 29 dated 14.10.2011 was entered.

3. Legal representatives of such deceased Vinod Sharma namely his mother Sharda Sharma, father Sh. Parshotam Sharma and brother Ajay Sharma had brought a claim petition under Section 163-A of the Motor Vehicles Act against respondents i.e. Union of India, Ministry of Defence through its Secretary, New Delhi and Tika Bahadur Thapa, driver of truck 2.5 ton Army vehicle. That claim petition was tried and disposed of by Motor Accident Claims Tribunal, Gurdaspur vide Award dated 7.8.2015 and compensation of Rs.50,000/- was awarded to the claimants payable by respondents No. 1 and 2 jointly and severally.

4. Finding the compensation granted to be on lower side, the petitioners- claimants have approached this Court by way of filing an appeal, notice of which was given to the respondents. However, only respondent No. 1 had put in appearance through counsel whereas remaining respondents did not appear despite service as such were proceeded against ex-parte.

5. I have learned counsel for the appellant and learned counsel for respondent No. 1 besides going through the record.

6. Section 164 of the Motor Vehicles Act, 1988 deals with subject of payment of compensation in case of death or grievous hurt etc., It provides that notwithstanding anything contained in the Act or in any other law for the time being in force or instrument having force of law, the owner of the motor vehicle or the authorized insurer shall be liable to pay in case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation for a sum of Rs.5 lakhs in case of death or Rs.2½ lakhs in case of grievous hurt to the legal representatives of the victim as the case may be. In view of this provision the compensation awarded to the claimants needs to be enhanced to Rs. 5 lakhs.

7. Therefore, the impugned Award is modified. The compensation of Rs.50,000/- is enhanced to Rs. 5 lakhs payable by both the respondents jointly and severally in terms of the directions issued in the impugned Award. The compensation is enhanced by 4.50 lakhs. The rate of interest awarded by the Tribunal is also modified with the observation that the claimants would be entitled to get such interest at the rate of 7.5% on the compensation amount of Rs. 5 lakhs from the date of filing of claim petition till actual realization besides costs throughout. The amount be apportioned between the claimants as under :-

- | | |
|---------------------|--------------|
| 1. Sharda Sharma | Rs. 2 lakhs. |
| 2. Parshotam Sharma | Rs. 2 lakhs |
| 3. Ajay Sharma | Rs. 1 lakh. |

8. Accordingly, the appeal is allowed partly.

(H.S. MADAAN)
JUDGE

May 30, 2023
p.singh

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