

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
257 **FAO-113-2022 (O&M)**
Date of decision: 30.05.2023

Prema & Others

...Appellant(s)

Vs.

Chiranji Lal (since deceased) through LR & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Reetesh Kumar, Advocate for
Mr. Pankaj Kaushik, Advocate
for the appellants.

Mr. Amit Singla, AAG, Haryana.

NIDHI GUPTA, J.

Present appeal has been filed by the claimants against dismissal of their claim petition by Motor Accident Claims Tribunal, Panipat (hereinafter referred to as "the learned Tribunal") vide Award dated 02.09.2021 passed in Claim Petition No.108 of 2020 filed under Sections 166 and 140 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). Three claimants are the widow, 38-year-old son, and 44-year-old daughter of deceased-Girdhari Lal.

2. Claim petition was filed by the appellants herein alleging that the deceased-Girdhari Lal had died due to injuries suffered by him in a motor vehicular accident that took place on 24.12.1993 at about 7 am due to rash and negligent driving of four wheeler bearing registration No.HR-29C-1801 (hereinafter referred to as 'the offending

vehicle') being driven by (now deceased) respondent No.1, owned by respondent No.2, and insured by respondent No.3 herein.

3. On the basis of the pleadings of the parties, learned Tribunal formulated the following issues:

- "1. Whether Girdhari Lal (JE) son of Nathi Ram has died due to rash and negligent driving of driver of vehicle bearing registration No.HR-29C-1801 by the respondent No.1? OPP
2. If issue No.1 is proved, whether the petitioners are entitled to compensation? If so, to what amount and from whom? OPP
3. Whether the respondents No.1 and 2 had violated the terms and conditions of insurance policy? OPR Relief."

4. Learned Tribunal on the basis of pleadings and evidence adduced before it concluded that *"..the petitioners have failed to prove the accident in question which took place on 24.12.1993 by the respondent No.1 while driving the offending vehicle Four-Wheeler bearing registration No.HR-29C-1801. The petitioners are not entitled to receive any amount as compensation. Therefore, the issues No.1 and 2 are decided against the petitioners."*

5. It is submitted by learned counsel for the appellants:

a) that the learned Tribunal is in patent error in dismissing their claim petition as DD No.34 dated 24.12.1993 was registered;

b) that appellants were fully dependent on income of the deceased and as such they are entitled to Rs.10 lakh by way of compensation;

c) that due to the said accident, life of the appellants has been ruined. They were totally dependent upon the deceased and have been deprived of love and affection of the deceased. Life and dreams of the appellants have been ruined due to sudden death of the deceased;

d) that the learned Tribunal erred in not appreciating the fact that once DDR has been registered in respect of the said accident, the claimants were merely required to establish the case on touchstone of preponderance of probability.

6. No other argument is raised by learned counsel for the appellants.

7. Heard.

8. Relevant findings returned by the learned Tribunal contained in Paras 12 and 13 of the Award are reproduced hereinbelow:-

“12. The copy of DDR no.10 dated 24.12.1993 is on the file which reveals that the accident in question took place on 24.12.1993. Chiranji Lal who was travelling in the four-wheeler no.HR-29C-1801 got recorded the DDR to police stating therein that the four-wheeler was being driven by the respondent no.1 very carefully, but the accident took place as a truck

bearing no.HR-07-7055 was standing on the road. It is mentioned in the DDR that there was no fault on the part of respondent no.1. As a matter of fact, the petitioners did not file any claim petition and did not dispute the version of DDR for about 24 years and the present claim petition was filed by them in year 2017. Prima facie there is no justifiable reason with the petitioners to claim compensation on account of death of deceased Girdhari alleging rash and negligent driving by respondent no.1 in accident which occurred 24 years ago and a DDR was recorded by the police to the effect that the accident was not caused due to rash and negligent driving of respondent no.1.

13. The intention of the petitioners to file the present petition after a huge delay of 24 years has been elicited out in the cross-examination of PW-1, Shailender Kumar son of deceased Girdhari Lal. PW-1 admitted that after death of her father, her mother was appointed by the Department on ex-gratia basis and that she retired from service in year 2013. It is evident that the wife of deceased Girdhari Lal did not file any claim petition against the department or respondent no.1 and opted to be appointed in the service on account of death of her husband but after

retirement, filed the present claim petition. Not only the delay on the part of petitioners to seek claim is unjustified, their act and conduct is also not proper. The petitioners accepted the job offered by the department on exgratia but after retirement filed the present claim blaming the department as well as respondent no.1.”

9. Learned counsel for the appellants is unable to controvert the above said findings of the learned Tribunal.
10. Furthermore, perusal of Grounds of Appeal reveals that it has been averred therein as follows:

“6. That the appellants had earlier filed a claim petition bearing MACT Case No.54/1994 regarding this accident which was dismissed vide order dated 27.10.1997 for non-appearance of the claimants.”

11. Clearly, in either eventuality, present claim petition filed by the claimants was not maintainable. Accordingly, I find no error in the dismissal of the same by the learned Tribunal.
12. In view of the above facts, present appeal accordingly, stands **dismissed**.
13. Pending application(s) if any also stand(s) disposed of.

30.05.2023
Sunena

(Nidhi Gupta)
Judge

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