

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

FAO-2095-2018 (O&M)

Date of decision: 24.01.2023

Jagdish Chander and others

...Appellants

Versus

Garg Road Lines, Rohtak and another

...Respondents

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

Present: Dr. S.K. Redhu, Advocate for the appellants.

Mr. Satpal Dhamija, Advocate for respondent No.2.

H.S. MADAAN, J. (Oral)

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), was filed by claimants Jagdish Chander, Kanta Devi and Nitesh Kumari against respondents Garg Road Lines, Rohtak through its proprietor– owner and New India Assurance Company Ltd.-insurer on account of death of Ashish Kumar, aged about 23 years in a motor vehicular accident, which took place on 30.07.2012 in the area near Asaudha Station at gate No.33 within jurisdiction of Police Station Bahadurgarh, District Jhajjar, statedly on account of rash and negligent driving of tanker bearing No.UP-14E-2513 (for short 'the offending truck'), claiming compensation.

Notice of that claim petition was given to the respondents, who had put in appearance and offered a contest. On conclusion of trial,

Motor Accidents Claims Tribunal, Rohtak, (for brevity 'the Tribunal') vide award dated 25.07.2017 had dismissed the claim petition for the reason that the petitioners had filed a similar claim petition earlier, which had been withdrawn by them, however, no permission to file a fresh petition had been sought but as pointed out by learned counsel for appellant/claimants when the first claim petition was withdrawn, the Tribunal where it was pending and which had passed order in that regard on 04.03.2016, had observed that the petitioners is at liberty to file fresh petition as per provisions of law, therefore, the observations made by the Tribunal in the impugned award are not correct.

Furthermore, Section 166 of the Act first is a piece of welfare legislation enacted by the Parliament to provide compensation to the victims/ LRs of victims in a prompt manner and strict rules of evidence and procedure are not applicable there. Therefore, dismissal of the claim petition adopting hyper-technical approach invoking provisions of Order 23 Rule 1 (4)(a) CPC was not called for and findings recorded by the Tribunal on issue No.5 are not sustainable and the same are set aside accordingly.

Though the Tribunal has otherwise calculated the compensation payable quantifying the same as Rs.17,45,000/- but as pointed out by learned counsel for the respondent No.2-Insurance Company, considering the age of deceased, the addition made towards future prospects, which should have been 40 % has been allowed at the rate of 50%. Further, learned counsel for respondent No.2-Insurance

Company has argued that the Insurance Company is aggrieved by some other findings recorded by the Tribunal and if the claim petition is to be accepted, then the insurance company may file appeal against the same.

Therefore, it is found proper and appropriate to dispose of the present appeal and to remand the case back to Motor Accidents Claims Tribunal, Rohtak with a direction to give fresh findings with regard to quantum of the compensation payable to the claimants as per settled law on the subject, after hearing learned counsel for the parties, whereas findings on other issues shall remain intact. The parties through counsel are directed to appear before the Tribunal on 10.02.2023. Since, the case has become quite old, the Tribunal is directed to pass fresh award in the matter with regard to quantum of compensation only, within one month from the date of receipt of copy of this order.

Disposed of.

24.01.2023

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(H.S. MADAAN)
JUDGE

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