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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 27<sup>th</sup> July, 2023*

+ **MAC.APP. 373/2019**

SURESH CHAND SHARMA (SINCE DECEASED) THR  
HIS LRS

..... Appellant

Through: Mr.Y.D.Sharma, Mr.Man  
Mohan Yadav, Advs.

versus

RAJU & ANR (THE ORIENTAL INSURANCE CO LTD )

..... Respondents

Through: Mr.Pradeep Gaur, Adv. for R-2.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**NAVIN CHAWLA, J. (ORAL)**

1. The present appeal has been filed challenging the Award dated 12.12.2018 (hereinafter referred to as the 'Impugned Award') passed by the learned Motor Accidents Claims Tribunal (Pilot Court), Karkardooma Courts, Delhi (hereinafter referred to as the 'Tribunal') in MACT Case No.14887/2015, titled *Sh. Suresh Chand Sharma (through LR's) v. Raju & Anr..*

2. In the Impugned Award, the learned Tribunal accepted the plea of the claimants that late Sh.Suresh Chand Sharma had sustained grievous injuries in the accident which occurred due to the rash and negligent driving of the offending vehicle bearing registration No.DL5 SBK 5277, being driven by its driver, that is, respondent no.1 herein.

Signature Not Verified, however, on the issue of the award of compensation to the claimants,

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MAC.APP. 373/2019



the learned Tribunal held that the claimants/appellants did not take appropriate steps to summon the doctor to prove the disability certificate, and in the absence of such proof, the disability certificate of the injured cannot be relied upon. It was further held that as the late Sh.Suresh Chand Sharma expired during the proceedings of the Claim Petition, the claimants are not entitled to compensation on the head of loss of income, loss of amenities of life, as well as the damages towards pain and suffering and other non-pecuniary heads.

3. Aggrieved of the abovementioned findings of the learned Tribunal, the claimants have filed the present appeal.

4. The learned counsel for the claimants submits that the learned Tribunal has failed to appreciate that the respondent no.2 itself has examined Dr. Arun Aggarwal as R2W1. He has proved on record his own Opinion Report dated 10.07.2018 as Ex.R2W1/1, which *inter-alia* opined as under:

*“OPINION:*

*Injuries of Suresh Chand Sharma had sustained on 28/10/2013 are grievous. And death was due to septicemia and shock after sustaining antemortem injuries in a road accident.”*

5. The learned counsel for the appellants submits that, therefore, it was the witness of the respondent no.2 who stated that the late Sh.Suresh Chand Sharma died due to the injuries suffered in the accident in question. The learned Tribunal has, therefore, completely erred in placing an additional burden on the appellant to prove the disability certificate, and in the absence of such proof, restricting the claim.

6. On the other hand, the learned counsel for the respondent no.2



submits that the onus of proving the claim is on the claimant. He submits that as the claimants have failed to prove the disability certificate of the injured, the learned Tribunal had no option but to restrict the claim of the appellants.

7. I am unable to agree with the submission made by the learned counsel for the respondent no.2. The learned Tribunal, in terms of Section 168 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act'), is to hold an 'inquiry' into the accident and then award a just compensation to the claimants. While the claim amount cannot be a bounty, it has to be a reasonable compensation for the loss of life or the injury suffered due to the accident. The learned Tribunal is not bound by the technicalities of procedure nor can place a burden of proof as applicable to a criminal trial, on the claimants.

8. In ***Vimla Devi v. National Insurance Co. Ltd.***, (2019) 2 SCC 186, the Supreme Court had reemphasized the object of the Act, as under:

*"15. At the outset, we may reiterate as has been consistently said by this Court in a series of cases that the Act is a beneficial piece of legislation enacted to give solace to the victims of the motor accident who suffer bodily injury or die untimely. The Act is designed in a manner, which relieves the victims from ensuring strict compliance provided in law, which are otherwise applicable to the suits and other proceedings while prosecuting the claim petition filed under the Act for claiming compensation for the loss sustained by them in the accident."*

9. The Punjab and Haryana High Court, in ***Hakummudin v. Ash Mohd. @Ashu and Others***, 2015 SCC OnLine P&H 19464, has held:

*"4. The provisions of filing petition claiming compensation for the injuries/death in a motor*



*accident have been incorporated in the Motor Vehicle Act as beneficial legislation for the victim/dependents of the deceased. The Tribunals are required to be cautious of this fact and instead of closing the evidence and dismissing the claim petition in a hurry as in this case, give adequate opportunity to the claimant to produce the evidence. The duty is cast upon the Tribunal to collect the record relating to accident and then decide the case. Reference in this regard can be made to the observations of the Apex Court in case of Ningamma v. United India Insurance Co.Ltd., (2009) 13 SCC 710. In that case, the Apex Court had remanded the matter to consider the grant of just compensation under Section 166 of the Motor Vehicles Act even if it is found that provisions of Section 163-A of the Motor Vehicles Act were not applicable to facts and circumstances of the case. While remanding the case, it was observed by the Apex Court that the Motor Vehicles Act is beneficial and welfare legislation and the Court is duty bound and entitled to award just compensation irrespective of the fact whether any plea in that behalf was raised by the claimant or not. The implication of the above observations are quite comprehensive.”*

10. In the present case, from the evidence led by the respondent no.2 itself, it stood proved that the deceased has lost his life due to the injuries suffered in the accident. In fact, this should have been treated as a case of death caused due to the accident, in which the disability certificate is not necessary to be proved for determining the compensation. The learned Tribunal has, therefore, clearly erred in law and on facts in restricting the claim of the appellants herein.

11. Accordingly, the Impugned Award is set aside. There shall be a limited remand to the learned Tribunal to re-determine the compensation payable to the appellants. As, in the facts of the case,

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MAC.APP. 373/2019



such re-determination will lead only to the enhancement of the compensation payable to the claimants, the amount already awarded to the Claimants by the impugned Award, shall continue to be disbursed to the Claimants in terms of the impugned Award even during the pendency of the remand proceedings. It is made clear that the amount already awarded to the Claimants shall not be re-opened on this remand. The amount already received by the claimants shall be adjusted in the final amount of the compensation that shall be determined by the learned Tribunal on such remand. The parties shall be entitled to lead additional evidence on such remand

12. The parties shall appear before the learned Tribunal on 29.08.2023.

13. The appeal is allowed in the above terms.

14. The Trial Court Record be sent back forthwith to the concerned Tribunal.

**NAVIN CHAWLA, J**

**JULY 27, 2023/Arya/AS**

*Click here to check corrigendum, if any*