

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3704 of 2018

Date of Decision: 08.01.2024

Poonam Devi and Others

... Petitioner(s)

Versus

Harpreet Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Ms. Ekta Thakur, Advocate
for the petitioner(s).

Mr. Lalit Pathak, Advocate
for the respondent No.1.

Mr. S.S.Sidhu, Advocate
for the respondent No.3.

Anil Kshetarpal, J.

1. The petitioners herein are the claimants. Thy are alleged to have lost their younger son in a motor vehicular accident. Originally, they filed the petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the 1988 Act”). During the pendency of the proceedings, they filed an application for permission to amend the petition to convert it into the one filed under Section 163A of the 1988 Act, which has been dismissed by the Tribunal on the ground that there is no provision to convert the claim petition under Section 166 of the 1988 Act into the one under Section 1663A of the 1988 Act.

2. The learned counsel representing the parties are *ad idem* that while deciding the **Civil Revision No. 8533 of 2017** titled as “**Salindro**

Devi and Another v. Thakur Dass and Another” along with another connected case, this Court, while relying upon the various other judgments passed by the Courts including the one rendered by Full Bench of the Karnataka High Court, has held that it is permissible to switch the claim petition filed under Section 166 of the 1988 Act into the one under Section 163A of the 1988 Act. The relevant discussion is in para 13 of the judgment, which reads as under:-

*“13. It is evident that in **Ram Sarup’s case** (supra), the attention of the Court was not drawn to the statutory provision. In fact, the **Ram Sarup’s case** (supra) is by and large based on **Deepal Girishbhai Soni’s case** (supra) in which the Supreme Court was not considering the amendment of the petition filed under Section 166 in order to convert it to the one under Section 163A. In the present case, there is no prayer for switching of the petition. The only amendment sought is to scale down the income in order to come within the maximum limit prescribed in the Schedule to the 1988 Act. In the absence of any specific bar or prohibition or restriction, it would not be appropriate to hold that there is an absolute bar on switching the provisions of application. The amendment of pleadings is a well known concept and in the absence of any specific provision to the contrary, it would not be appropriate to hold that the Tribunal or the Court has no power to permit the parties to amend the petition.”*

3. Keeping in view the aforesaid facts, the present revision petition is allowed. The impugned order is set aside. The application filed by the claimants shall stand allowed.

(Anil Kshetarpal)
Judge

January 08, 2024
“DK”

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