



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

FAO-1877-1995 (O&M)
Date of decision : 09.12.2024

Mohan Lal and another Appellants

versus

Ashok Kumar and another Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. R.D. Gupta, Advocate
for the appellants.

Mr. Parminder Singh, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. Claimants are in appeal aggrieved of the award dated 02.03.1995 passed by MACT, Karnal whereby claim petition filed by the claimants under Sections 166, 140/141 of the Motor Vehicles Act, 1988 seeking compensation on account of death of their son Rajesh Kumar @ Ramesh in a motor vehicular accident dated 18.12.1992, stands rejected.
2. Claimants filed claim petition claiming that on the fateful day, the deceased tried to stop the tractor trolley in question being driven by respondent No.1 in rash and negligent manner. He initially stopped the tractor and thereafter, started the same. Deceased Rajesh Kumar in his attempt to board the tractor, suffered injuries as tractor suddenly came in motion. He was run over by the left wheel of the tractor and died on spot. The respondents in their written statement admitted the factum of incident, however denied negligence of respondent No.1. It was claimed that rather



the deceased himself was negligent as he tried to board running tractor.

3. On the basis of pleadings, following issues were framed:-

“1. Whether the roadside accident on 18.12.1992 at about 8.30 a.m. took place due to the rash and negligent driving of Tractor Trolley bearing No.HK-2339 by respondent No.1 and whether the same resulted in Rajesh Kumar alias Ramesh being run over by the said tractor-trolley causing his death? OPP

2. If issue No.1 is proved whether the claimants are entitled to any compensation. If so, how much and from whom? OPP

3. Relief.”

4. Neither any eye witness was examined nor any FIR was got registered. Thus, issue No.1 was returned against the claimants. While deciding issue No.2, Tribunal rejected the claim of the claimants even under Section 140 of the Motor Vehicles Act, 1988 holding that since it is the deceased who himself was negligent and there being no evidence on record to substantiate the plea raised by the claimants. It was not possible for the Tribunal to hold that merely for the reason that the deceased died in a motor vehicular accident, the claimants are entitled for compensation.

5. Learned counsel for the appellants while assailing the findings of Tribunal on issue No.2, refers to Section 140 to contend that compensation payable under Section 140 is not dependent upon the finding regarding negligence of the offending vehicle or the driver of the offending vehicle. Even in case wherein the deceased is found to be liable, compensation is payable to the claimants.

6. Mr. Parminder Singh has supported the award passed by Tribunal submitting that the incident relates to 18.12.1992. On the said



date, provision as contained under Section 140(4) was not on the statute book and thus, the claimants will not be entitled for any compensation.

7. I have heard counsel for the parties and have carefully gone through the records of the case.

8. The precise issue that falls for consideration before this Court is:-

(i) Whether the claimants/appellants are entitled for compensation in terms of amended Section of 140 that came into operation prior to passing of the award.

9. Section 140 of the Act reads as under:-

“140. Liability to pay compensation in certain cases on the principle of no fault.—(1) Where death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle shall, or, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section.

(2) The amount of compensation which shall be payable under sub-section (1) in respect of the death of any person shall be a fixed sum of 1[fifty thousand rupees] and the amount of compensation payable under that sub-section in respect of the permanent disablement of any person shall be a fixed sum of 2[twenty-five thousand rupees].

(3) In any claim for compensation under sub-section (1), the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicle or vehicles concerned or of any other person.

(4) A claim for compensation under sub-section (1) shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of whose death or permanent disablement the claim has been made nor shall the quantum of compensation recoverable in respect of such death or permanent disablement be



reduced on the basis of the share of such person in the responsibility for such death or permanent disablement.

3[(5) Notwithstanding anything contained in sub-section (2) regarding death or bodily injury to any person, for which the owner of the vehicle is liable to give compensation for relief, he is also liable to pay compensation under any other law for the time being in force:

Provided that the amount of such compensation to be given under any other law shall be reduced from the amount of compensation payable under this section or under section 163A.]”

10. Explaining the objective behind enacting Section 140 MVA, 1988 the Supreme Court in *Eshwarappa alias Maheshwarappa and another v. C.S. Gurushanthappa and another [(2010) 8 SCC 620]*, pointed out that the provisions of Chapter X were in furtherance of the public policy that in case of death or permanent disability suffered by a person resulting from a motor accident, a minimum amount was to be paid to the heirs of the deceased or the injured, as the case may be, without any questioning and independent of compensation on the principle of fault.

11. In view of above, finding that the issue is no more *res integra*, the claimants/appellants are entitled for compensation in terms of provision as contained under Section 140 of the Act on the date the award was decided i.e. 02.03.1995

12. In view of above, the present appeal is allowed.

13. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

09.12.2024

Dinesh

Whether speaking/reasoned :
Whether Reportable :

Yes
No