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FAO NO.1068 of 1999(O&M)
DATE OF DECISION: 09.04.2024

Archana @ Romy and others

.....Appellants

VERSUS

Bhanga Singh and others

.....Respondents

CORAM HON’BLE MR. JUSTICE GURBIR SINGH

Present

Mr.Ashwani Arora, Advocate,
for the appellants.

Mr. C.L.Sharma, Advocate, for
respondents no.1 and 2.

Mr. Sanjiv Pabbi, Advocate,
for respondent no.3-Insurance Company.

GURBIR SINGH, J

1.
- This appeal has been filed against the Award dated 30.09.1998 passed by learned Motor Accident Claims Tribunal, Ambala (for short – the Tribunal), whereby the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for brevity – the Act), filed by the appellants (hereinafter referred to as – the claimants) was partly allowed. Claimants were awarded a sum of Rs.50,000/- only as no fault liability by holding that there was no fault of the driver of the offending vehicle but the deceased was at fault.
2.
- Learned counsel for the appellants, at the outset, has submitted that the appellants do not challenge the findings of the learned Tribunal on issue no.1 but the appellants are entitled for a sum of Rs.5,00,000/- on account of no fault liability. Reliance in this regard has been placed on judgment of Hon’ble Supreme Court in the case of **Ram Murti and others vs. Punjab State Electricity Board – 2023 ACJ 631.**

3. On the other hand, learned counsel for respondent no.3 – Insurance Company has argued that the accident took place on 05.01.96. At that time, only Rs.50,000/- could be granted by way of no fault liability under Section 140 of the Act. So, the appellants are not entitled for compensation to the tune of Rs.5,00,000/-. It is further submitted that since deceased was at fault and there was no liability on the part of the offending vehicle so claimants are not entitled for more compensation.

4. In case **Ram Murti (supra)**, the accident had taken place on 23.05.1991. At that time, only a sum of Rs.25,000/- could be granted under Section 140 of the Act. In the year 1994, amendment was made and the amount payable was enhanced from Rs.25,000/- to Rs.50,000/-. The relevant extract of the judgment **Ram Murti (supra)** is as under :-

“7. The provisions of section 140 which formed a part of Chapter X of the Motor Vehicles Act, 1988 were omitted by Act 32 of 2019. Simultaneously, Chapter XI was substituted of which section 164 provides for payment of compensation in the case of death in the amount of Rs. 5,00,000 and in the case of grievous hurt of Rs. 2,50,000.

8. We are inclined to give the appellants the benefit of the beneficial provisions which have been enacted by Parliament. Hence, in modification of the order of the High Court, we direct that the appellants shall be entitled to an amount of Rs. 5,00,000 as compensation. However, if the amount of Rs. 50,000 which has been awarded by the High Court has already been paid over, the balance (or the entirety of Rs. 5,00,000 if no amount has been paid) shall be paid over to the appellants by 30.11.2022.”

5. Reliance has also been placed on a judgment passed by a Coordinate Bench of this Court in case titled **Chhailu and another vs. Ashok Kumar and another – FAO-5204-2006 (O&M) (decided on 23.01.2024)**, wherein it has been held that vide the Motor Vehicles (Amendment) Act, 32 of 2019, Chapter X stands omitted and substituted by Chapter XI. Section 163-A falls in Chapter X of the un-amended Motor Vehicles Act, 1988 and the same has now been replaced by Section

164. In view thereof, the judgment of the Hon’ble Supreme Court in the case of Ram Murti (supra) would be fully applicable in the present case.

6. In view of the above, the present appeal is disposed of and the amount of compensation is enhanced to Rs.5,00,000/-. The amount in excess, over and above the amount awarded by the Tribunal shall also attract interest @ 6% per annum, from the date of filing of the claim petition till the realization of the entire amount. The amount shall be apportioned between the claimants-appellants as directed by the Tribunal and same be deposited in their accounts.

7. Accordingly, the Award passed by the Tribunal is modified in the aforesaid terms.

8. Pending applications, if any, shall stand disposed of along with this judgment.

09.04.2024
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(GURBIR SINGH)
JUDGE

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