



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

204

FAO-2901-2005 (O&M)

Decided on : 25.09.2024

Ram Pal

... Appellant(s)

Versus

Satbir Singh (deceased) through LR and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Bhag Singh, Advocate
for the appellant(s).

Mr. Vinod Gupta, Advocate
for respondent No.3 – Insurance Company.

SANJAY VASHISTH, J. (Oral)

1. Appellant/claimant – Ram Pal, who suffered injury in an accident, has filed the present appeal, by challenging the award dated 01.02.2005, passed by the Motor Accident Claims Tribunal, Kurukshetra (for brevity, 'Ld. Tribunal'), whereby, claim petition i.e. MACT Case No.104 of 2002, under Section 166 of the Motor Vehicles Act, 1988 (in short, 'MV Act'), had been dismissed by the Ld. Tribunal.

2. As per the pleaded case of the appellant/claimant, on 23.12.2001, he along with one Suba Ram and Khajan Singh, had gone to Ludhiana to see the daughter of Satbir Singh (respondent No.1 herein). At about 7:00/7:30 P.M., they were going to attend a marriage party at Village Balbera in Maruti Car bearing registration No.PB-10AH/3767 owned and driven by respondent No.1. When said car reached near the turn of the International Hotel in the area of Police Station Tripuri, District Patiala, it



struck against the divider of the road, due to which, he himself (claimant herein), Khajan Singh and Satbir Singh sustained injuries and resultantly, they were admitted in Rajindera Hospital, Patiala. The driver-cum-owner of the vehicle (respondent No.1) later succumbed to the injuries. The claim petition was filed under Section 166 of the MV Act, by raising a plea that the accident in question occurred due to the rash and negligent driving of the said car by Satbir Singh (respondent No.1).

In the joint written statement filed by respondents No.1, 2 and 2A, apart raising of the preliminary objections, such as, being not maintainable, mis-joinder and non-joinder of necessary parties, no cause of action etc., on merits, it was contended that the car was being driven at a normal speed by respondent No.1 – Satbir Singh, on correct side of the road, accident happened suddenly, and due to said accident, driver-cum-owner of the vehicle also lost his life.

In the written statement filed by respondent No.3 (the New India Assurance Company Ltd.), apart taking preliminary objections, on merits, it was contended that the accident did not occur solely due to rash and negligent driving of the said car by respondent No.1 Satbir Singh (deceased), as is clear from the statement recorded by the police, which is reflected in Daily Diary Report (DDR).

3. Vide order dated 10.08.2004, Ld. Tribunal framed the following issues:-

- “1. Whether the accident in question resulting injuries to claimant was caused due to rash and negligent driving of car no.PB10AH/3767 by its driver, respondent no.1 as alleged ? OPP
2. If issue no.1 is proved to what amount of compensation



the petitioner is entitled to and from whom ? OPP

3. *Whether respondent no.3 was holding a valid and effective driving licence on the alleged date of accident ? OPR*
4. *Relief.”*

4. While examining/analyzing the evidence, Ld. Tribunal found that based on the statement of the claimant himself, Daily Diary Report (DDR) (Ex.P7) was recorded by the police, wherein, version has been recorded that “*accident took place when Satbir Singh, driver-cum-owner of the said car tried to save a Rickshaw puller, and as a result of which, said car struck against the divider of the road, and there was no fault on the part of Satbir Singh*”, and that is why, he never wanted to initiate any criminal proceedings against anybody.

By making such observations in paragraph No.5 of the impugned award, Ld. Tribunal has decided issue No.1. For reference, said finding is reproduced here-under:-

“5. *Therefore, after going through the circumstances of the case, it is evident that the claimant himself has reported to the police in the form of DDR Ex.P7 that respondent no.1 owner-cum-driver of car no.PB10AH/3767 was not negligent. The claimant has not produced any other witness of the occurrence in order to fasten the responsibility of the said accident upon Satbir Singh who was owner-cum-driver of the said car and had succumbed to the accidental injuries on the date of accident itself. Therefore, no criminal proceeding has been launched against any body. Therefore, in my opinion, in view of the statement of claimant himself in the form of Ex.P7 the responsibility of the afore stated accident cannot be in any way fasten upon Satbir Singh and as such Satbir Singh cannot*



be held rash and negligent while driving car no.PB-10AH/3767.

This issue is decided against the claimant and in favour of the respondents.”

5. By referring to the said finding along with judgments of the Hon’ble Apex Court rendered in *Ningamma v. United India Insurance Co. Ltd., 2009 (13) SCC 710 : Law Finder Doc Id # 197440*, and in *Ram Murti and others v. Punjab State Electricity Board, 2023 ACJ 631 : Law Finder Doc Id: 2091451*, learned counsel for the appellant/claimant argues that the Act being beneficial in nature with a purpose to rehabilitate the victim’s family, the nature of the claim petition can be changed by the Court also, as has already been guided by the Hon’ble Apex Court in *Ningamma’s case (supra)*.

From the Lower Court record, Mr. Bhag Singh, learned counsel for the appellant/claimant, takes this Court to the copy of MLR and submits that on 24.12.2001 at 12:05 A.M. (during night time), injured was examined by the Doctors and three injuries were recorded. For all three injuries, the injured (appellant/claimant) was advised X-ray.

6. Mr. Bhag Singh, learned counsel for the appellant/claimant further refers to the statement recorded in English and given by the patient (appellant/claimant herein) on 24.12.2001 at 1:30 A.M., which is as under:-

“I am not willing for any x-ray, as I have no money at present.”

7. However, subsequently, one disability certificate dated 09.04.2003 (Ex.P8) was issued by the Civil Hospital, Kurukshetra, wherein, it is mentioned that claimant has sustained an injury as *Fracture Condyle Rt*



Femur. Resultantly, total physical disability of the claimant was assessed as 10%.

Thus, submits that in view of the judgment of the Apex court in *Ram Murti's case (supra)*, claimant of the appellant/claimant for the injury suffered by him can be considered under Section 163-A of the MV Act (un-amended), which has now been amended as Section 164 of the MV Act.

Further submits that he would be well-satisfied, if considering the injury of the appellant/claimant, he is awarded the amount as per Section 164 of the MV Act, which has already been considered and awarded by Ld. Apex Court in *Ram Murti's case (supra)*.

8. On the other hand, Mr. Vinod Gupta, learned counsel for respondent No.3 – Insurance Company, while defending the impugned award, submits that after more than two decades, the petition, which was filed under Section 166 of the MV Act, requiring proving of the rash and negligent driving of the driver, cannot be converted to any other provision such as Section 163-A of the MV Act or Section 164 of the MV Act.

However, he is unable to cite any judgment in his favour. He is also not in a position to controvert the fact that the Hon'ble Apex Court has also observed the purpose of the beneficial legislation in *Ningamma's case (supra)* and also that in a case of the accident of the year 1994, the Hon'ble Apex Court has awarded compensation as per the amended Section 163 of the MV Act.

9. Considering all the facts and circumstances of the case and the observations recorded by the Hon'ble Apex Court in *Ningamma's case (supra)* and *Ram Murti's case (supra)*, this Court deems it appropriate to convert the claim petition of the appellant/claimant under Section 163-A of



the MV Act (un-amended)/Section 164 of the MV Act (amended), and the finding recorded under issue No.1 is reversed by observing that it is almost established that accident had occurred with the use of a Maruti Car bearing registration No.PB-10AH/3767, which is insured with respondent No.3 – Insurance Company, thus, the claim petition is very much maintainable. Finding under issue No.1 is accordingly reversed and decided in favour of the appellant/claimant.

10. Now, proceeding for the purpose of awarding compensation, this Court is bound to follow the judgment of the Hon'ble Apex Court rendered in **Ram Murti's case (supra)**, and thus, by considering the injury suffered, resulting into 10% disability, this Court deems it appropriate to award the compensation amount of **Rs.2.50 lakhs (Rupees Two Lakhs and Fifty Thousand only)** in favour of the appellant/claimant, in view of the amended provision i.e. Section 164 of the MV Act (un-amended Section 163-A of the MV Act).

11. In view of the aforementioned reasons, **present appeal is allowed**. Consequently, the impugned order dated 01.02.2005 is hereby set-aside. Appellant/claimant is held entitled for the compensation amount of **Rs.2.50 lakhs**, in view of amended provision of law i.e. Section 164 of the MV Act, 1988.

12. Let the awarded amount of **Rs.2.50 lakhs** be paid to the appellant/claimant within a period of three months from today by respondent No.3 – Insurance Company.

At this stage, learned counsel for the appellants/claimants urges for granting interest @ 9% per annum, in case of default of payment of compensation amount by respondent No.3 – Insurance Company.



13. I have considered the cited judgments and finds that it is silent about interest part. However, considering the date of accident and amended provision of law, it is directed and made clear that in case, the respondent No.3 – Insurance Company does not pay the compensation amount within the stipulated period, as recorded above, in that eventuality, respondent No.3 – Insurance Company would be liable to pay the compensation amount along with interest @ 7.5% per annum, from the date of passing of this order till its final payment/realization.

Thus by recording aforesaid terms, appeal stands disposed of.

Misc. application(s), if any, also stand disposed of.

Registry is directed to send back record of the Ld. Tribunal, after due compliance.

**(SANJAY VASHISTH)
JUDGE**

September 25, 2024

J.Ram

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