



FAO-3138-2005(O&M) and  
FAO-461-2006(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO-3138-2005(O&M)

Munni Khatun and others . . . . Appellants

Vs.

Manvir Singh @ Babbu and others . . . . Respondents  
FAO-461-2006(O&M)

Tallebun and anr . . . . Appellants

Vs.

Manvir Singh @ Babbu and others . . . . Respondents

Date of Decision: 07.11.2024

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CORAM: HON’BLE MR. JUSTICE SANJAY VASHISTH

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Present: Mr. Jashanpreet Singh Marwaha, Advocate and  
Ms. Sanya Kapoor, Advocate  
for the appellant(s).

Mr. Abhishek Goyal, Advocate for  
Mr. Pardeep Goyal, Advocate  
for respondent No.3.

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SANJAY VASHISTH, J.(Oral)

1. This common order shall dispose of aforementioned two appeals i.e  
FAO-3138-2005 and FAO-461-2006,filed by the appellants/claimants, as  
both the appeals are interconnected ,and have arisen out of the same and  
common award.



2. FA0-3138-2005 has been preferred by the appellants/claimants i.e (1) Munni Khatun (widow of deceased), (2) Karmula (minor son of deceased), (3) Jasula (minor son of deceased), (4) Anju (minor daughter of the deceased) and (5) Halima (mother of the deceased), for enhancement of the amount of compensation, ordered vide Award dated 23.02.2005, passed by the Motor Accident Claims Tribunal, Patiala (for brevity, 'Ld. Tribunal'), whereby, claim petition i.e MACT Case No. 26 of 18.03.2004 under section 166 of the Motor Vehicle Act, 1988 (in short, 'MV Act'), had been partly allowed by the Tribunal on account of **death of Mustafa**.

3. FA0-416-2006 has been preferred by the appellants/claimants i.e (1) Tallebun (mother of deceased), and (2) Qamrul (father of deceased, for enhancement of the amount of compensation, ordered vide Award dated 23.02.2005, passed by the Motor Accidenmt Claims Tribunal, Patiala (for brevity, 'Ld. Tribunal'), whereby, claim petition i.e MACT Case No. 25 of 18.03.2004 under section 166 of the Motor Vehicle Act, 1988 (in short, 'MV Act'), had been partly allowed by the Tribunal on account of **death of Laddoo**.

4. **Facts of the Case:** Few facts necessary for adjudication and extracted from FAO-3138-2005 are noticed and detailed hereafter:-

On 17.01.2004, at about 6 P.M., Sukhpal Singh, Mustafa, Ladduu, Ram Chander Dass and Rashid were going in Toyota Qualis bearing registration No. PB-11 U-0097 driven by Manvir Singh@ Babbu (respondent no.1) belonging to Surinder Kaur (respondent no.2). Respondent no.1 –driver of the vehicle was driving at a very fast speed, Sukhpal singh and Ram chander



requested respondent no.1-driver , to drive slowly but he misbehaved with them. At about 6 a.m, when they reached at Badwan bypass near Manva Nagar, a truck was noticed coming from the opposite side and respondent no.1 without caring started overtaking the truck. As a result of which, respondent no.1 lost control and struck the same against the truck coming from opposite side.

5. As a result of this collision, vehicle was totally deranged and all occupants sustained multiple injuries and Respondent no.1 –driver, ran away from the spot. All the injured were removed to local hospital at Basti, where Sukhpal Singh, Mustafa and Laddu were declared dead and Ram Chander Dass and Rashid were admitted for treatment.

6. Three separate claim petitions were filed before the Ld. Tribunal for awarding of compensation to the appellants/claimants. Since all these three claim petitions pertain to common accident, all these three were ordered to be consolidated and a common order was passed. Claimants have been awarded Rs.50,000/-in each claim petition.

Appellants/ Claimant have filed the present petition, seeking enhancement of the compensation as awarded by the Ld. Tribunal.

7. Learned counsel appearing on behalf of respondent No.3 – Insurance Company, while defending the impugned award passed by the Ld. Tribunal submits that once the claim petition is filed itself under Section 166 of the MV Act and claimant himself failed in proving the rash and negligent driving



of its driver, the claimant petition shall be dismissed, as the injured-claimant (appellant herein) is not entitled for any amount of compensation, as per law.

8. On the other hand, Ld. Counsel for appellants/claimants submits that in view of the amended provision of the Act, i.e. section 164 of the MV Act(un-amended Section 163-A of the MV Act), the appellants/claimants are entitled to the minimum compensation amount of Rs. 5 Lacs. To substantiate his plea, counsel relies upon the judgment of this court passed in FAO-4708-2004, titled as, **“Vijay Kumar Goyal vs. Pankaj Kumar and others”**, decided on 13.08.2024.

9. While deciding issue no.1, Ld. Tribunal in paragraph no.40 of the Award held in specific that respondent no.1 was not rash and negligent in driving and cannot be held responsible for the accident. However, as a matter of fact, it is no more in dispute that death of Mustafa and Ladoo, was the result of the use of vehicle and the claim petitions arising from such an accident is maintainable under section 164 of the MV Act. And, the Hon’ble court has power to convert the claim petition filed by the claimant under Section 166 of the MV Act, 1988 to Section 164 of the MV Act, 1988, wherein, rash and negligent driving is not required to be proved. This court in **Vijay Kumar Goyal’s case(supra)**,has specially observed as under:

*“8. While dealing with the argument of respondent No.2 – Insurance Company, this Court is guided with the judgment of Hon’ble Apex Court rendered in Ningamma v. United India Insurance Co. Ltd., 2009 (13) SCC 710 : Law Finder Doc Id # 197440, wherein, the observations were made by the Hon’ble*



*Apex Court regarding the aims and objects purposes of the beneficial legislation to safeguard the interests of the victims due to the vehicular accidents. The relevant observation recorded therein, is reproduced here-below:-*

*“25. Undoubtedly, Section 166 of the MVA deals with "Just Compensation" and even if in the pleadings no specific claim was made under Section 166 of the MVA, in our considered opinion a party should not be deprived from getting "Just Compensation" in case the claimant is able to make out a case under any provision of law. Needless to say, the MVA is beneficial and welfare legislation. In fact, 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. However, whether or not the claimants would be governed with the terms and conditions of the insurance policy and whether or not the provisions of Section 147 of the MVA would be applicable in the present case and also whether or not there was rash and negligent driving on the part of the deceased, are essentially a matter of fact which was required to be considered and answered at least by the High Court.*



26. *While entertaining the appeal, no effort was made by the High Court to deal with the aforesaid issues, and therefore, we are of the considered opinion that the present case should be remanded back to the High Court to give its decision on the aforesaid issues. The High Court was required to consider the aforesaid issues even if it found that the provision of Section 163A of MVA was not applicable to the facts and circumstances of the present case. Since all the aforesaid issues are purely questions of fact, we do not propose to deal with these issues and we send the matter back to the High Court for dealing with the said issues and to render its decision in accordance with law. The High Court will also consider the question of quantum of compensation, if any, to which the claimants might be entitled to, having regard to the earning capacity of the deceased and "Just Compensation", if any. Since the claim is a very old claim, we request the High Court to consider the matter as expeditiously as possible.*

27. *In terms of the aforesaid order, we remand back both the matters to the High Court to dispose of the*



*same. The appeals are disposed of in terms of the aforesaid order.”*

*Thus, by following the dictum of Hon’ble Apex Court for the purpose of following the aims and objects of the MV Act, 1988, there is no negative law, to curtail the power of this Court, to convert the claim petition filed by the claimant under Section 166 of the MV Act, 1988 to Section 164 of the MV Act, 1988, wherein, proving of rash and negligent driving is not required to be pleaded and proved.*

*9. It is admitted fact before this Court that in DDR No.7, dated 01.06.2001, there is mention of the registration number of the scooter and from the findings recorded or from any other evidence available on record, counsel representing respondent No.2 – Insurance Company, could not point out any acceptable evidence to say that injuries have not been suffered due to the accident in question and the claim petition has been filed in connivance with the scooter’s driver/owner. Even otherwise also, there is no finding given by the Ld. Tribunal to say that the injuries suffered by the appellant-claimant are for some other reason than the accident pleaded by him in the claim petition.*

**10.** xxxxxxxx

*11. Learned counsel for the appellant-claimant further submits that since the MV Act, 1988, is beneficial in nature, the amended provision of the said Act would be applicable for the pending*



*proceedings also before the Courts. Therefore, he submits that in the present case, appellant-claimant is entitled to receive compensation in view of Section 164 of the MV Act, 1988, wherein, the claimant is not required to prove the rash and negligent driving of anyone. The only requirement is the happening of death or suffering of grievous hurt etc. due to any accident arising out of the use of motor vehicle. Again, for reference, provision of Section 164 of the MV Act, 1988, is reproduced here-under:-*

*“164. Payment of compensation in case of death or grievous hurt, etc.- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.*

*(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or*



*neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.*

*(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section.”*

10. Apart this, Learned Counsel for the appellants/claimants further submits that in view of the amended provision of the Act, i.e. Section 164 of the MV Act(un-amended Section 163-A of the MV Act),the appellants/claimants are entitled to the minimum amount of Rs.5.00 Lakhs in each case. To substantiate his plea, Counsel relies upon the judgment of Hon’ble Apex Court rendered in **Ram Murti and others v. Punjab State Electricity Board,2023 ACJ 631:Law Finder id#2091451**,and submits that for the accident took place on 12<sup>th</sup> April,1994,the amended provision of Section 164 of the MV Act has been invoked by the Hon’ble Apex Court, wherein there is a provision of awarding of compensation amount of Rs.5.00 Lakhs in case of death and in case of grievous hurt, the compensation amount is fixed as Rs. 2.5 Lakhs.

11. In view of the aforementioned reasons, the present appeals are modified and disposed of. Consequently, the impugned award dated 23.02.2005 is hereby modified to the extent that appellants/claimants are entitled to a compensation amount of Rs. 5 lakhs (Rupees Five Lacs

only)each in both the appeals, in view of the amended provision of Law i.e. Section 164 of the MV Act.

Let the awarded amount of Rs.5 lakhs (Rupees Five Lakhs only) be paid to the appellants-claimants within a period of three months from today by respondent No.3–Insurance Company along with interest @ 7.5% per annum, from the date of passing of this order till its final payment/realization.

Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to the impugned award would be adjusted.

Thus, by recording aforesaid terms, appeal stands disposed of.

Pending miscellaneous application(s), if any shall also stand disposed of.

A photocopy of this order be placed on the file of another connected case.

(SANJAY VASHISTH)  
JUDGE

November 07, 2024  
rashmi

1. Whether speaking/reasoned?

Yes/No
2. Whether reportable?

Yes/No