



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

208

FAO-4179-2005 (O&M)  
Decided on : 10.12.2024

Sarabjit Kaur and others

... Appellant(s)

Versus

Mehar Singh and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

**PRESENT:** Mr. Sanjay Singh, Advocate for  
Mr. Rajeshwar Singh, Advocate  
for the appellant(s).

Mr. Ram Avtar, Advocate  
for respondent No.3 – Insurance Company.

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**SANJAY VASHISTH, J. (Oral)**

1. Mr. Ram Avtar, Advocate has put in appearance on behalf of respondent No.3 and filed memo of appearance, which is taken on record.

2. The instant appeal has been filed by the claimants by challenging the award dated 04.05.2005 passed by the Motor Accident Claims Tribunal (MACT), Fatehgarh Sahib, whereby claim application No.17 of 25.03.2003 under Section 166 of the Motor Vehicles Act, 1988 (for short ' MV Act') was dismissed, primarily on the ground that the rash and negligent driving of respondent No.1, namely, Mehar Singh (Driver of Tipper No.HR-55-2247) is not established and therefore, petition filed under Section 166 of the Act, 1988 is not maintainable.

3. Learned counsel representing the appellants (hereinafter referred to as 'claimants') submits that the Tribunal committed the legal error because as per the settled proposition of law by the Hon'ble Apex



Court as well as High Court(s), the very purpose of the statute is to compensate and rehabilitate the victims, who suffered bodily injuries or someone, who was sole bread earner in the family, is no more on account of vehicular accident.

4. Learned counsel for the appellants/claimants relies upon *Ningamma v. United India Insurance Co. Ltd., 2009 (13) SCC 710 : Law Finder Doc Id # 197440*, wherein aims and objects of the Motor Vehicles Act, 1988 have been discussed, and therefore, submits that the claim petition, initially filed under Section 166 of the MV Act, be converted under Section 163-A of the MV Act (amended Section 164 of the MV Act), wherein, proving of rash and negligent driving is neither required to be pleaded nor to be proved.

Besides, counsel also relies upon judgment of Hon'ble Apex Court rendered in *Ram Murti and others v. Punjab State Electricity Board, 2023 ACJ 631 : Law Finder Doc id # 2091451*.

5. Learned counsel appearing on behalf of respondent No.3- Insurance Company, reiterates his submissions while defending the impugned award passed by the Ld. Tribunal that once, the claim petition is filed under Section 166 of MV Act and claimants himself failed in proving the rash and negligent driving of its driver then appellants/claimants are not entitled for any amount of compensation, as per law.

6. This Court has examined the record and after hearing the learned counsel for the parties, is much impressed with the law laid down in *Ningamma's case (supra)*. The relevant observation recorded therein, is reproduced here-under:-



*“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.”*



7. Therefore, this Court has no hesitation to hold that the claim petition can be converted to Section 163-A of the MV Act (now Section 164 of the MV Act), wherein pleading or proving of death due to rash and negligent driving is not required to decide, whether the claimants would be entitled to the compensation amount under any provision of the MV Act. Thus, the submission of the appellants/claimants is hereby accepted and the claim petition is allowed to be considered under Section 163-A of the MV Act (now Section 164 of the MV Act).

8. The aforesaid view point of this Court further gets strengthen with the observation made in **Ram Murti's case (supra)**, wherein, the compensation amount of Rs.5,00,000/- (Rupees Five Lacs only) has been awarded by addressing the provision of Section 164 of the MV Act. In **Ram Murti's case (supra)**, accident took place in the year 1991. The observation made therein are reproduced as under:-

*“2. The appeal has arisen from a judgment of a Single Judge of the High Court of Punjab & Haryana dated 10 March 2009 in FAO No 1461 of 1994.*

*3. The High Court was considering an appeal arising from an award of the Motor Accident Claims Tribunal, Bhatinda dated 12 April 1994. The Tribunal dismissed the application filed by the appellants under section 166 of the Motor Vehicles Act, 1988. However, the claim under Section 140 was allowed and the appellants were held entitled to receive an amount of Rs 25,000 on account of the death of Ved Parkash.*

*4. The High Court has affirmed the judgment of the Tribunal in regard to the dismissal of the claim under section 166 of the Motor Vehicles Act, 1988. However, having due regard to the amendment of the provisions of Section 140 in 1994, the amount payable has been enhanced from Rs 25,000 to Rs 50,000.*



5. *We have heard Mr Narender Singh Yadav, counsel appearing on behalf of the appellants and Ms Uttara Babbar, counsel for the respondent.*

6. *There is no cogent basis for this Court to entertain the challenge against the findings of fact which have been recorded concurrently by the Tribunal and by the High Court while dismissing the claim under section 166 of the Motor Vehicles Act, 1988.*

7. *The provisions of Section 140 which formed a part of Chapter 10 of the Motor Vehicles Act 1988 were omitted by Act 32 of 2019. Simultaneously, Chapter 11 was substituted of which Section 164 provides for payment of compensation in the case of death in the amount of Rs. 5 lakhs and in the case of grievous hurt of Rs 2.5 lakhs.*

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 lakhs 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 lakhs if no amount has been paid) shall be paid over to the appellants by 30 November 2022.*

9. *The appeal is accordingly disposed of.*

10. *Pending applications, if any, stand disposed of.”*

9. Since, there is no denial to the pleaded case of the appellants-claimant and also looking at the medical evidence available on record, I deem it appropriate to allow present appeal, and thus, hold that the appellants-claimants are entitled for an amount of compensation as **Rs.5.00 lacs (Rupees Five Lacs only)**, in view of amended provision of law i.e. Section 164 of the MV Act.

10. Let the awarded amount of Rs.5.00 lacs be paid to the appellants-claimants within a period of three months from today by



respondent No.3 – Insurance Company. Out of the said amount, 40% be paid to each of the appellants No. 1 and 2 and 10% be paid to each of the appellants No.3 and 4.

11. At this stage, learned counsel for the appellants-claimants urges for granting interest @ 9% per annum, from the date of filing of claim petition till its final realization.

Since, in Ram Murti's case (supra) there is nothing observed regarding interest part, it is directed that if the respondent no3- Insurance company does not pay the compensation amount within the stipulated period, as recorded here above, Insurance Company would be liable to pay the compensation amount along with interest @ 9% per annum, from the date of passing of this order till its final payment/realization.

And, in case any further delay is caused beyond six months from today, compensation amount would be payable along with interest @ 12% p.a. from the date of passing of this order till its actual realization.

12. Therefore, by recording aforesaid terms, appeal stands partly allowed and disposed of.

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

(SANJAY VASHISTH)  
JUDGE

December 10, 2024

J.Ram

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