

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-1693-2007 (O&M)

Date of Decision: November 11, 2024

Sudesh Juneja and anr.

.....Appellant(s)

Vs.

Bijender and others

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Vikalp Hooda, Advocate for the appellant.

Mr. Rahul Pathania, Advocate
for respondent No. 4— Insurance Company.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 13.12.2006 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal') for enhancement of compensation granted to the claimants/appellants.

FACTS NOT IN DISPUTE

2. The brief facts of the case are that on 26.09.2005, Deepak along with Sanjay (since deceased) was riding on a motorcycle bearing registration No. HR-12-G-5660 from Sarswati School, Rohtak to his house, situated in Vishal Nagar, Rohtak. Sanjay was driving the motorcycle whereas Deepak was its pillion rider. At about 9:30 A.M, when they reached on the turn of Vishal Nagar, on Rohtak Northern Bypass road near New Bus Stand, Rohtak, in the meantime, a Haryana Roadways Bus bearing registration No. HR-46-B-7251 driven by its driver at a

high speed, came from the opposite side in a rash and negligent manner and struck against the motorcycle driven by Sanjay (since deceased). As a result, both Deepak and Sanjay fell down on the road and sustained multiple grievous injuries. Both the injured were evacuated to the PGIMS, Rohtak where Deepak was got admitted and Sanjay succumbed to the injuries. A formal FIR (Ex P2) was also registered against the bus driver at Police Station, Civil Lines, Rohtak.

3. On notice of the claim petition, respondents appeared and denied the factum of accident/compensation.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

1. Whether the accident in question took place on 26.09.2005 due to rash and negligent driving of Bus No. No.HR-46-B-7251 by Bijender Singh, respondent No. 3? OPP
2. Whether Deepak, petitioner, applicant (MACT Case No. 104 of 2.12.2005/4.5.2006, titled Deepak versus State of Haryana and others) suffered injuries in the accident, if so, to what amount of compensation, Deepak, petitioner is entitled to? OPP
3. Whether Sanjay son of Amarjeet Singh (MACT case No. 272 of 2006, titled Sudesh etc. versus Bijender etc.) died as a result of the injuries suffered in the accident, if so, to what amount of compensation, Smt. Sudesh etc, petitioners are entitled to? OPP.

4. Whether Bijender, respondent No. 3 driver of the bus in question, was holding a valid and effective driving license at the time of the accident, if so its effect? OPR

5. Relief.”

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the tune of Rs.1,84,000/- alongwith interest @ 7.5% per annum. Hence the claimants/appellants filed the present appeal for enhancement of compensation awarded by the Tribunal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

6. Learned counsel for the claimants-appellants has made the following submissions:-

i) That the amount assessed by the learned Tribunal is on the lower side.

ii) That Section 163-A of Motor Vehicles Act, 1988 is now substituted by Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) and compensation should be enhanced as per the substituted statutory provision i.e. Section 164 of the Act.

iii) That the present case is covered by the judgment rendered by this Court in **FAO No.4301 of 2006**, titled as **“Akajit Kaur and Others Vs. Parveen Kumar and Others.”** wherein the claim under Section 163-A of the Motor Vehicles Act, 1988 was converted to Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) by relying upon the judgment of Hon’ble *Supreme Court in the case of Ram Murti*

and others Vs. Punjab State Electricity Board [2022(4) TAC 738] wherein it was held that Section 164 of the Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) provides for payment of compensation in case of death in the amount of Rs.5 lakhs and in the case of grievous hurt of Rs.2.5 lakhs.

7. Per contra, learned counsel for the respondent-Insurance Company, however, vehemently argues that the award has rightly been passed and the amount of compensation as assessed by the learned Tribunal has rightly been granted.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. A perusal of the award indicates that in the present case the claimants filed the claim petition seeking compensation on account of the death of their beloved son who was aged about 17 years at the time of occurrence. Since section 163-A of Motor Vehicles Act, 1988 is now substituted by Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) and compensation should be enhanced as per the substituted statutory provision i.e. Section 164 of the Act, therefore, the appellants herein are entitled to be granted the benefit of beneficial provision enacted by the Parliament under Chapter 11 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 grievous hurt of Rs.2.5 lakhs.

10. Further, this Court in **FAO No.4301 of 2006**, titled as “*Akaljit Kaur and Others Vs. Parveen Kumar and Others*” held as under:-

“11. Hon’ble Supreme Court in the case of *Ram Murti and others Vs. Punjab State Electricity Board [2022(4) TAC 738]* held that the appellants therein to be granted the benefit of beneficial

provision enacted by the Parliament under Chapter 11 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 grievous hurt of Rs.2.5 lakhs.

12. *This Court in **FAO-195-2006** titled as **Mamta and Others Vs. Happy and Others**, decided on 29.05.2024, held that since Motor Vehicle statute is a beneficial legislation, the Judge should not go into the technicalities of the provisions, under which the application or petition is moved but should apply his judicial mind, as these are only the irregularities and not illegalities which cannot be cured. It has been observed by the Hon'ble Supreme Court that the loss caused to the claimants or the relationship or to the victim of the limb cannot be compensated. Still the Court should make every effort by exercising its discretion empathetically. Further, Justice should actually be shown to be delivered by application of judicial mind with intelligence, prudence, care and caution and by showing empathy. The Court decision should be such that they strengthen the trust and confidence of public and litigants in judicial system and judiciary."*

11. In view of the above, the present appeal is allowed. Accordingly, the award dated 13.12.2006 is modified by converting the claim petition under Section 163-A (pre 2018 amendment) to Section 164 (post 2018 amendment) of the Motor Vehicles Act, 1988. As such, the claimants/appellants are held entitled to compensation to the tune of Rs.5 lakhs, which shall be distributed equally amongst the claimants/appellants, namely, Sudesh Juneja and Amarjeet Singh.

12. So far as the interest part is concerned, as held by Hon'ble Supreme Court in *Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma* 2019 ACJ 3176 and *R.Valli and Others VS. Tamil Nandu State Transport Corporation* (2022) 5 Supreme Court Cases 107, the appellants-claimants are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

13. The Insurance Company is directed to deposit the enhanced amount along with interest with the Tribunal within a period of two months from today. The appellants-claimants are directed to furnish their bank account details to the Insurance Company/Tribunal. The Tribunal is further directed to disburse the enhanced amount of compensation along with interest in equal shares in the bank accounts of the appellants-claimants.

14. Disposed of accordingly.

15. Pending applications, if any, also stand disposed off.

(SUDEEPTI SHARMA)
JUDGE

November 11, 2024

G Arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes