



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

211

FAO-3458-2006 (O&M)
Date of Decision: December 03 2024

Rekha and others

.....Appellant(s)

Vs.

**Mahaveera Transport Company Ltd.
And another**

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Surinder Dhull, Advocate
for the appellants.

Mr. D.K. Dogra, Advocate
for respondent No.2

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 02.05.2006 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act') by the learned Motor Accident Claims Tribunal, Kaithal (for short, 'the Tribunal') vide which the claim petition filed by the appellants/claimants, who are the legal heirs of the deceased-Satbir Singh, was dismissed.

FACTS NOT IN DISPUTE

2. The brief facts of the case as mentioned in the claim petition are that on 10.04.2002 at about 8:00 p.m. a truck bearing registration No.HR-47-4973 turned down near Pallavi Dhabas near ring road and due to turning down of the said truck, Satbir Singh received the injuries and died at the spot. FIR was got registered regarding the said accident.



3. Upon notice of the claim petition, respondents appeared and filed written reply denying the factum of accident/compensation.

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

1. Whether the accident resulting death of Satbir Singh son of Ram Chander took place on 10.4.2002 due to turned down the truck no.HR-47/4973 as alleged ? OPP.

2. Whether the claimants are entitled to compensation, if so to what amount and from whom?OPP.

3. Whether the driver of the truck in question was not holding any valid and effective driving licence at the time of alleged accident? OPR-2.

4. Relief.

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim-petition. Hence the claimants/appellants filed the present appeal for grant of compensation.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

6. The learned counsel for the claimants-appellants contends as under:-

i) That the claim petition is dismissed only on the ground that the manner of accident has not been proved which is clearly against the evidence on record since the manner of accident is proved from the contents of the FIR which is proved on record as Mark 'A', whereas, death by way of accident is proved from the post mortem report.



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 granted as per the substituted statutory provision i.e. Section 164 of the Act.

7. Per contra, learned counsel for the respondents (owner and driver), however, vehemently argues that the award has rightly been passed and the claim petition has rightly been dismissed.

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

9. A perusal of the record shows that FIR was registered under Section 279, 304-A IPC against respondent No.1 which is mark 'A' wherein truck No.HR-47-4973 is mentioned which proves the involvement of the truck as well the factum of accident. There is no rebuttal to the same by the respondents.

10. Further, wife of deceased-Satbir Singh was examined as PW-1 who proved the factum of accident by stating that her husband died in road accident and was a driver of the truck in Gurgaon.

11. The reasoning given by the Ld. Tribunal that the manner of accident is not pleaded for dismissing the claim petition, is not acceptable to this Court, since the factum of accident is proved by the evidence on record to the effect that there was no rebuttal on behalf of the respondents which has also been observed by the Ld. Tribunal.

12. Even a perusal of written statement on behalf of the respondents No.1 and 2 shows that they admitted the factum of accident. Respondent No.1 in his written statement has stated that the vehicle No.HR-47-4973 was insured



with United India Insurance Company vide policy cover Note No.363726 dated 29.08.2001 and valid upto 28.08.2002 and the accident took place on 10.04.2002. A perusal of the record shows that both the respondents admitted the factum of accident and the Ld. Tribunal has observed that there is no rebuttal evidence on behalf of the respondents, still the claim petition is dismissed

13. Further, under Section 163-A of the Act, there is no need to prove negligence and the manner of accident rather the only requirement is that accident took place by the use of the motor vehicle.

14. In view of the above, issue No.1 is decided in favour of the appellants/claimants and they are held entitled to compensation. Issue No.2 is also decided in favour of the appellants/claimants.

15. 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.

16. A perusal of the award reveals that the present case is covered by the judgment rendered by this Court in FAO No.4301 of 2006, titled as “Akaljit 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.

17. In view of the above referred to judgments, the appeal is allowed and award dated 02.05.2006 is set aside and this Court converts the claim petition filed under Section 163-A to 164 of the Act. Hence, the claimants/appellants are held entitled to compensation to the tune of Rs.5 lakhs.



18. 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 Nadu 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.

19. The respondent-Insurance Company is directed to deposit the awarded amount of Rs. 5 lacs alongwith interest with the Tribunal within a period of two months from the receipt of copy of this judgment. The appellants-claimants are directed to furnish their bank account details to the Tribunal. The Tribunal is further directed to disburse the awarded amount of compensation alongwith interest in equal shares in the bank account of the appellants-claimants.

20. Further, the Insurance Company is hereby directed to disburse the current scheduled fee to Mr. D.K. Dogra, Advocate in pursuant to order dated 18.07.2024 passed in FAO-1682-2007 within a period of 20 days from the date of receipt of copy of this judgment.

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

(SUDEEPTI SHARMA)
JUDGE

December 03, 2024

sonia arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes / No