



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-4232-2006 (O&M)

Date of Decision: November 20, 2024

NARINDER KAUR AND ANOTHER

.....Appellant(s)

Vs.

SURINDER SINGH AND ANR.

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Ms. Gutika Rani, Advocate
for the appellants.

Mr. V.K. Garg, Advocate
for the respondent-Insurance Company.

SUDEEPTI SHARMA J.

1. This is an old matter pertaining to the year 2006 but no one has put in appearance on behalf of the Insurance Company.
2. Previously vide order dated 18.07.2024 in FAO No.1682 of 2007, this Court had already issued directions to the Insurance Companies that in the event, any of their empanelled counsel fails to appear, the Court would request the counsel empanelled with the Insurance Companies, who is present in the Court to assist in the matters. Further, the concerned Insurance Companies were directed to disburse the current scheduled fees to the counsel engaged by this Court for assisting in the matters, within a period of 10 days from the date of receipt of certified copy of this order.
3. On the asking of the Court, Mr. V.K. Garg, Advocate accepts notice on behalf of respondent No.3-Insurance Company.
4. Learned counsel for the appellant has handed over copy of the paper-book alongwith relevant record to the learned counsel for respondent- Insurance Company.



5. In view of the order dated 18.07.2024 passed in FAO No.1682 of 2007, the Insurance Company is directed to disburse the current scheduled fees to Mr. V.K.Garg, Advocate, the counsel engaged by this Court in the present case. The Insurance Company is directed to pay the scheduled fees to Mr. V.K.Garg, Advocate, within a period of 10 days from the date of receipt of certified copy of this order.

FAO No. 4232-2006

6. The present appeal has been preferred against the award dated 28.04.2006 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') for enhancement of compensation granted to the appellants, on account of death of Phuman Singh in a motor vehicular accident, occurred on 03.05.2002, whereby, the learned Tribunal awarded compensation to the claimants to the tune of Rs.1,27,000/- alongwith interest 6% per annum.

7. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case are not reproduced for the sake of brevity.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

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

i) That the compensation awarded to the claimants/appellants is on the lower side, as Phuman Singh (since deceased) was 22 years old at the time of accident.

ii) That Section 163-A of Motor Vehicles Act, 1988 is 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



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.

9. Per contra, learned counsel for the respondent, 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. He thus prayed for dismissal of the appeal

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

11. A perusal of the award indicates that in the present case, the claimants/appellants filed the claim petition seeking compensation on account of death of Phuman Singh who was about 22 years of age at the time of alleged accident. The Tribunal had taken the income of the deceased as Rs.1200/- per month. 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 of grievous hurt of Rs.2.5 lakhs.

SETTLED LAW ON COMPENSATION

12. 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.”

CONCLUSION

13. In view of the above, the present appeal is allowed. The award dated 28.04.2006 is modified. Accordingly, the claimants/appellants are held entitled to compensation to the tune of Rs.5 lakh. The Tribunal has awarded compensation of Rs.1,27,000/- to the claimants/appellants, therefore, now the enhanced amount of



Rs.3,73,000/-(Rs.5,00,000-1,27,000/-) be disbursed amongst the claimants/appellants.

14. 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.

15. The Insurance Company is directed to deposit the awarded 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 the bank accounts of the appellants-claimants, as per ratio settled in award dated 28.04.2006.

16. Before parting with the judgment, this Court extends its appreciation to Mr. V.K.Garg, Advocate, for his able assistance to the Court in the present matter. Further Insurance Company is directed to disburse the current schedule fees to Mr. V.K.Garg, Advocate, within a period of ten days from the date of receipt of certified copy of this order.

17. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

November 20, 2024

Gaurav Arora

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