



FAO-659-2006

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

335

Cross Objection 17-CII-2006 and
FAO-659-2006 (O&M)
Date of Decision: 05.11.2024

Royal Sundram Alliance Insurance co. Ltd.Appellant

Versus

Ranjit Singh and anr. ...Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Ashwani Talwar, Advocate
for the appellant.

Mr. Ashwani Arora, Advocate for
the respondent No. 1/claimant.

SUDEEPTI SHARMA J. (ORAL)

1. Appeal and cross objection, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned award dated 13.10.2005 passed by the learned Tribunal, Chandigarh, whereby the claimant/respondent No. 1 was awarded compensation to tune of Rs.64,000/- on account of the injuries suffered by him in the accident under Section 163-A of the Motor Vehicles Act, 1988.

FACTS NOT IN DISPUTE

2. The brief facts of the case are that on 13.10.2002 at about 5:00 P.M, claimant-Ranjit Singh was coming from Nabha to Chandigarh while driving car No. CH-03-J-2484 and his son Jashan Preet was sitting in it. When they reached



near Jand Kheri Canal on the Patiala-Rajpura Road at that time, suddenly a cow came in front of the car. When the claimant suddenly applied brake, it went into a ditch and struck against a Eucalyptus tree and turned turtle. As a result of which, the claimant sustained injuries and was removed to Rajindra Hospital, Patiala.

3. Upon notice of the claim petition, respondent-driver and Insurance Company appeared and denied the factum of accident/compensation.

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

- 1) *Whether the claimant sustained multiple injuries in a motor accident which took place with vehicle NO. CH-03-J-2484? OPP*
- 2) *If issue No.1 is proved. To what amount of compensation, the claimant is entitled to and from whom of the respondents? OPP*
- 3) *Whether the driver of the vehicle was not holding a valid driving license.? OPR*
- 4) *Relief.”*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the tune of Rs.64,000/- alongwith interest @ 7.5% per annum. Hence the claimant/cross objector filed the present appeal for enhancement of compensation awarded by the Tribunal and the appellant-Insurance Company has filed the present appeal that the Tribunal has wrongly granted the compensation.

**SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES**

6. Learned counsel for the appellant-Insurance Company submits that the claimant did not suffer any disability and the compensation has wrongly been granted to the claimant.

7. Per contra, learned counsel for respondent No. 1/cross objector contends that the appeal filed by the Insurance Company is liable to be dismissed, as the claimant moved an application for review of award dated 13.10.2005 on the ground that disability certificate Ex P9 was not considered by the Tribunal. The disability certificate is already on record. Moreover, the amount granted for medical expenses, pain and suffering and loss of income is also on the lower side.

(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 **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.

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

9. The relevant portion of the order passed in the review application filed by respondent No. 1/cross objector reads as under:-

“On the basis of the said schedule, I have considered the award already passed u/s 163-A. The applicant have availed 38 days of earned leave on account of accident. He was earning Rs. 8000/- per month as salary. A sum of Rs. 10,000/- has been awarded to him as compensation on account of loss of earned leave. He has been awarded the entire amount spent by him as medical expenses i.e. Rs. 39,000/- though on account of grievous injuries a sum of Rs. 5000/- is payable as per para no.4 of the schedule but he has been awarded a sum of Rs. 15,000/- on account of pain and suffering. In view of the medical expenses, loss of income, pain and suffering having been taken into consideration the permanent partial disability in respect of upper and lower limb (which would be lesser in context to the whole body) will not in any manner marked a difference in the amount of award already granted, taking into consideration the permanent disability certificate. As the award is already a subject matter of appeal it will not be proper to change the same on the ground alleged. However, the claimant will be at liberty to file cross- appeal or



appeal for enhancement in accordance with the procedure of law, if still aggrieved. Disposed of. File be consigned.”

10. A perusal of the above indicates that in the present case, the claimant filed the claim petition seeking compensation under Section 163-A of the Motor Vehicles Act, 1988, on account of the injuries suffered by him. It is apparent from the disability certificate (Ex P9) that the claimant suffered disability. 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 appellant herein is 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.

11. 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."*

12. In view of the above, the cross objections filed by the claimant/cross objector is allowed and the appeal filed by the Insurance Company is dismissed. This Court is now converting the claim petition under Section 163-A (pre 2018 amendment) to Section 164 (post 2018 amendment) of the Motor Vehicles Act, 1988. Therefore, the claimant/appellant is held entitled to compensation to the tune of Rs.2.5 lakh. Now the enhanced amount of Rs.1,86,000/- (Rs.2,50,000-64,000/-) be disbursed to the claimant/cross objector.

13. 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 claimant/cross objector is granted the interest @9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

14. 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 claimant/cross objector is directed to furnish his 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 account of the claimant/cross objector.

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

(SUDEEPTI SHARMA)
JUDGE

November 05, 2024
G Arora

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