

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CWP-16857-2018 (O&M)
Date of decision: 12.01.2024

SUMAN AND ANOTHER

.....Petitioners

VERSUS

NATIONAL HIGHWAY AUTHORITY OF INDIA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Ms. Ekta Thakur, Advocate
for the petitioners

Mr. Sehajbir Singh Aulakh, AAG, Punjab.

Mr. R.S. Madan, Advocate
for respondent No.1.

None for respondent No.4.

VINOD S. BHARDWAJ, J. (Oral)

Prayer in the present writ petition is for directing the respondents for payment of compensation to the petitioners on account of death of Ankit Sharma due to negligence of respondents.

2. The petitioners are parents of deceased Ankit and have approached this Court stating that their son was travelling in a Car bearing Registration No. HR-03-T-8716 from Chandigarh to Railway Station Rajpura on 27.02.2018 via the four lane Chandigarh-Patiala Project (National Highway-64), the construction whereof had begun on 09.10.2015 and the completion target was February, 2017. The Punjab Public Works Department (PWD) had been entrusted with the

execution of the said project by the Union of India, however, despite the dead line, the project had not been completed by the respondents. The said timeline was extended initially to October, 2017 and thereafter to 31.01.2018, however, the project in question was not completed even till March, 2018. On the fateful day, when the deceased crossed the tax barrier Banur, some construction work was going on and a diversion work was being undertaken, however, there was no signage, indication or signal etc. or even any warning or diversion on the basis whereof it could be ascertained that the road was not complete and some divider/diversions had been installed in the center of the road, consequently, the abovesaid vehicle hit in the centre divider/diversion. The photographs of the place of incident and recorded at the time of the incident have been attached as Annexure P-7 colly. It is contended that the respondent-State PWD (B &R) was the executing authority and was under an obligation to ensure that appropriate safety devices and mechanism is put in place so that a vehicle does not get ramped into such divider that have been established without any protection gear. A reply has been filed by the respondents wherein the incident in question has not been denied or disputed.

3. Even though, specific allegations have been levelled by the petitioners that the signages/diversion/warnings had not been installed at a place, however, the respondents have been side tracking the issue and not addressing the same. They have chosen to remain silent as to whether the requisite safety devices mandated as per the law had been put in place or not. They have merely refer to the photographs, to contend that it was valid, however, the photographs in question are not

in relation to the time of the incident. Besides, it is apparent from a perusal of the aforesaid photographs that have remain uncontroverted that the entire portion had been left open and there was no diversion/warning on the basis whereof a Driver could know that the divider had been placed in the midst of the road. Besides, the entire area is strewn with pebbles and earth and there is no such demarcation/diversion installed at the place of an incident. Thus, it cannot be construed that the respondents had taken recourse to all safety and precautionary measures so as to avoid accidents/incidents of similar nature resulting in loss of precious lives of individuals.

4. At the same time, taking into consideration the circumstances of the case and also the time of the incident at which the accident took place, it cannot wholly be said as to what would be an appropriate compensation and how such compensation has to be apportioned. The same are disputed questions of fact for which evidence is required to be led by the parties before the competent Court.

5. Balancing equities amongst the parties, it is thus deemed appropriate to dispose of the present writ petition by avoiding an interim compensation of Rs. 5 lakhs on account of death of Ankit son of the petitioners herein. Liberty is granted to the petitioners to prefer an appropriate claim petition in terms of the provisions of the Motor Vehicle Act for claiming appropriate compensation on account of the aforesaid incident. The said liability shall be discharged principally by the Public Works Department (B&R), Punjab-respondent No.4 with rights of recovery from any of the sub Contractors who may have been delegated with the said responsibility.

6. The writ petition is disposed of as above.
7. Needless to mention that in the event of the petitioner preferring any petition for seeking compensation, the period during which the present petition has remain pending before this Court shall be taken into consideration to compute limitation.
8. All the pending miscellaneous application(s), if any, are also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 12, 2024

Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No