

2024:PHHC:010026

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

122

CR-5498-2023
Date of Decision : 24.01.2024

SUNITA AND OTHERS

..... Petitioners

Versus

SUCHA SINGH AND OTHERS

..... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sachin Gupta, Advocate, for
Mr. Charanjit Singh, Advocate for the petitioners.

Mr. Nigam K. Bhardwaj, Advocate
for respondent No.3-Insurance Company.

ALKA SARIN, J. (Oral)

1. The present petition has been preferred by the claimant aggrieved by the order passed by the Motor Accident Claim Tribunal, Pathankot wherein the petitioner's claim has been returned with the directions to avail the appropriate remedy as per the amendment Act or its rules.

2. The Tribunal has held that since the accident information report has not been filed by the police, therefore, the claim petition cannot be directedly filed before the Tribunal.

3. Learned counsel for the petitioners has contended that as per the Amended Section 159, information regarding a Detailed Accident Report is to be given by the Police Officer to facilitate the settlement of claim in such

form and manner within three months and containing such particulars and has to be submitted to the Claims Tribunal or any such other agency as may be prescribed. Section 166 of the Amended Act still provides that an injured or the claimant of a deceased person may approach the Tribunal and file an application for compensation arising out of the accident of the nature specified in Sub-section (1) of Section 165. Learned counsel would further contend that Section 159 does not take away the right of the claimant to file a claim petition before the Motor Accident Claim Tribunal. Rather, Section 159 is in addition and a duty has been cast upon the police during investigation to prepare an accident information report to facilitate the settlement of an accident claim.

4. Learned counsel for respondent No.3-Insurance Company has not been able to dispute the legal arguments made by the learned counsel for the petitioners.

5. Heard.

6. Section 159 of the Amended Act reads as under:

*“159. Information to be given regarding accident -
The police officer shall, during the investigation, prepare an accident information report to facilitate the settlement of claim in such form and manner, within three months and containing such particulars and submit the same to the Claims Tribunal and such other agency as may be prescribed.”*

7. Section 166 of the Amended Act reads as under:

“166. Application for compensation:

(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made -

- (a) by the person who has sustained the injury; or*
- (b) by the owner of the property; or*
- (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or*
- (d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:*

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

Provided further that where a person accepts compensation under section 164 in accordance with the procedure provided under section 149, his claims petition before the Claims Tribunal shall lapse.

(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:

(3) No application for compensation shall be entertained unless it is made within six months of the

occurrence of the accident.

(4) The Claims Tribunal shall treat any report of accidents forwarded to it under 6[section 159] as an application for compensation under this Act.

(5) Notwithstanding anything in this Act or any other law for the time being in force, the right of a person to claim compensation for injury in an accident shall, upon the death of the person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not.”

8. A conjoint reading of both the sections leave no manner of doubt that a claim petition is to be preferred by the claimant-injured or the claimants before the Tribunal. Additionally, the police is now under a duty under Section 159 to prepare an accident information report to facilitate the settlement claim.

9. In view of the above, the order of the Tribunal cannot be sustained in law and accordingly the same is set aside. The matter is remanded back to the Tribunal to decide the same afresh in accordance with law. Parties to appear before the Tribunal on **12.02.2024** at 10.00 am.

10. Disposed off accordingly. Pending application(s), if any, also stand disposed off.

24.01.2024
D.Bansal

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO