



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

207

FAO-2351-2006
Reserved on 14.05.2025
Date of decision: 29.05.2025

Baldev Singh and others

...Appellants

Versus

Gursewak Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Ms. Akanksha, Advocate for
Mr. Lal Singh Sandhu, Advocate for the appellants.

Mr. G.B.S Gill. Advocate for respondents No.1 & 2.

Mr. D.P. Gupta, Advocate
for respondent No.3-Insurance Company.

SUDEEPTI SHARMA, J.

1. The present appeal has been preferred against the Award dated 05.04.2005 passed in the claim petition under Section 163-A of the Motor Accident Claims Tribunal, Sirsa (for short, 'the Tribunal'), vide which, the claim petition filed by the claimant-injured for grant of compensation was dismissed.

BRIEF FACTS OF THE CASE

2. On 24.02.2003, Bahadur Singh, Mani Ram and Jaimal Singh were travelling upon a motor-cycle from Dhani Sahuwala towards village Karamgarh. Motor-cycle was being driven by Bahadur Singh. When abovesaid persons reached near Karamgarh turning a jeep bearing registration no. RNC-1026 driven by respondent no.1 came from behind and knocked down the abovesaid motor-cycle. Bahadur Singh died at the spot



due to this accident. Mani Ram suffered serious injuries leading to his death on the same day. Jaimal Singh also sustained serious injuries in the said accident. It is alleged that the accident took place due to rash and negligent driving of Jeep No.RNC-1026 by respondent No.1.

3. Upon notice of the claim petition, respondents appeared and contested the claim petition by filing written replies denying the factum of compensation/accident.

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

1. Whether petitioner Jaimal Singh received injuries and Bahadur Singh son of Pat Ram and Mani Ram son of Nanak Ram died in a road accident which took place on 24.02.2003 in the area of village Sahuwala P.S. Baragudha due to rash and negligent driving on the part of respondent No.1 driver of Jeep No.RNC-1026 as alleged? OPP.

2. Whether Gursewak Singh, who was on the driver's seat of the jeep did not hold a valid driving licence and if so to what effect? OPR. (Insurance Company)

3. Whether petitioners are entitled to award of compensation and if so how much and from whom? OPP

4. Relief.

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim petition. Hence, claimants/legal heirs of injured Jaimal Singh since deceased preferred the present appeal for grant of compensation.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

6. Learned counsel for the appellants, who are the legal heirs of the deceased claimant Jaimal Singh, submits that the claim petition was erroneously dismissed by the learned Motor Accident Claims Tribunal



(MACT) on the ground that the right to sue did not survive upon the death of Jaimal Singh during the pendency of the proceedings. He further contends 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 be granted as per the substituted statutory provision i.e. Section 164 of the Motor Vehicles Act. Therefore, he prays that the present appeal be allowed and compensation be granted to the appellants/claimants as per settled law.

7. Per contra, learned counsel for the respondents supports the findings of the learned Tribunal and reiterates that the injuries and disability were suffered personally by Jaimal Singh, and therefore the claim could not be pursued posthumously.

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

9. The relevant portion of the award is reproduced as under:-

"In Petition "Jaimal Singh Vs. Gursewak etc."

MACT Petition No.14 of 2003/04), petitioner Jaimal Singh had sought compensation for injuries and permanent disability suffered by him in abovesaid accident. Learned counsel for legal heirs of deceased Jaimal Singh admits that Jaimal Singh died during pendency of petition. However, relying upon Kartar Kaur and others Versus Dayal Singh and others 1999 ACJ 699 learned counsel for petitioner argued that legal heirs of deceased Jaimal Singh are entitled to receive compensation for injuries/disability suffered by him. However, learned counsel for respondent no.3 argued that injuries and disability in question had been suffered by Jaimal Singh himself, who has died. Relying upon Melepurath Sankunni Ezhuthassan Versus



Thekittil Geopalankutty Nair 1996 ACJ 440, learned counsel for respondent no.3 argued that right to sue does not survive to legal heirs of deceased Jaimal Singh. Undoubtedly, injuries and disability in question had been suffered by Jaimal Singh himself. Therefore, Jaimal Singh had a personal cause of action in his favour. With the death of Jaimal Singh himself right to sue does not survive to his legal heirs. In this view, this court is guided by law laid down by Hon'ble Supreme Court of India in Melepurat) case (supra). Under these circumstances, this tribunal has left with no choice but to dismiss the present petition titled "Jaimal Singh Vs. Gursewak etc." (MACT Petition No.14 of 2003/04). I order accordingly."

10. The pivotal issue for consideration before this Court is:-

“Whether the right to claim compensation under the Motor Vehicles Act survives to the legal representatives of the injured claimant upon his death during the pendency of the claim petition?”

11. This issue is no longer res integra and stands conclusively settled by the Hon’ble Supreme Court in The ***Oriental Insurance Co. Ltd. v. Kahlon @ Jasmail Singh, 2021 (4) RCR (Civil) 1*** wherein the Hon’ble Court held that a claim petition filed under the Motor Vehicles Act does not abate upon the death of the injured claimant, and that the legal heirs of such a claimant are entitled to prosecute the claim and receive compensation. The Relevant extract of the same are reproduced below:

“10. In Umed Chand (supra), giving a broad liberal interpretation to the provisions of the Act so that legal representatives do not suffer injustice, it was observed that the claim for personal injuries will not survive on death of the injured unrelated to the accident but the legal representatives could pursue the claim for enhancement of the claim for loss of



the estate which would include expenditure on medical expenses, travelling, attendant, diet, doctor's fee and reasonable monthly annual accretion to the estate for a certain period. It is trite that the income which a person derives compositely forms part of the expenditure on himself, his family and the savings go to the estate. The unforeseen expenses as aforesaid naturally have to be met from the estate causing pecuniary loss to the estate.

11. In [Maimuna Begum](#) (supra) the defence under [Section 306](#) of the Indian Succession Act, 1925 on the old English Common Law maxim “actio personalis moritur cum persona” was rejected opining that it would be unjust to nonsuit the heirs on that ground.

12. In Venkatesan (supra), the injured claimant preferred an appeal dissatisfied, but was deceased during the pendency of the appeal. Compensation came to be awarded under the Act for loss of estate keeping in mind the nature of the injuries, the treatment, the expenditure incurred and loss of income.

13. In Surpal Singh (supra), Justice K.S. Radhakrishnan, C.J. (as he then was), observed that the Act was a social welfare legislation providing for compensation by award to people who sustain bodily injuries or get killed. The grant of compensation had to be expeditious as procedural technicalities could not be allowed to defeat the just purpose of the act. The Courts in construing social welfare legislations had to adopt a beneficial rule of construction which fulfils the policy of the legislation favorable to those in whose interest the Act has been passed. Judicial discipline demanded that the words of a remedial statutes be construed so far as they reasonably admit so as to secure that relief contemplated by the statute and it shall not be denied to the class intended to be relieved. Rejecting the maxim of “actio personalis moritur cum persona” on the premise that it was an injury done to the person and the claim abated with



his demise it was observed:

“11. The question as to whether injury was personal or otherwise is of no significance so far as the wrong doer is concerned and he is obliged to make good the loss sustained by the injured. Legal heirs and legal representatives would have also suffered considerable mental pain and agony due to the accident caused to their kith and kin. Possibly they might have looked after their dear ones in different circumstances, which cannot be measurable in monetary terms. We are therefore in full agreement with the view expressed by the learned Single Judge of this Court in Gujarat State Road Transport Corporation’s case (supra) that even after death of the injured, the claim petition does not abate and right to sue survives to his heirs and legal representatives.”

14. This view has subsequently been followed in a decision authored by brother Justice M.R. Shah J., (as he then was) in [Madhuben Maheshbhai Patel vs. Joseph Francis Mewan and Others](#), 2015 (2) GLH 499, holding as follows:

“12....Considering the aforesaid decision of the Division Bench of this Court in the case of Surpal Singh Ladhubha Gohil (supra); decisions of the learned Single Judge of this Court in the case of Jenabai Widow of Abdul Karim Musa (supra) and in the case of Amrishkumar Vinodbhai (supra); and aforesaid two decisions of the learned Single Judge of the Rajasthan High Court, we are of the opinion that maxim “actio personalis moritur cum persona” on which [Section 306](#) of the Indian Evidence Act (sic [Indian Succession Act](#)) is based cannot have an applicability in all actions even in an case of personal injuries where damages flows from the head or under the head of loss to the estate. Therefore, even after the death



of the injured claimant, claim petition does not abate and right to sue survive to his heirs and legal representatives in so far as loss to the estate is concerned, which would include personal expenses incurred on the treatment and other claim related to loss to the estate. Under the circumstances, the issue referred to the Division Bench is answered accordingly. Consequently, it is held that no error has been committed by the learned Tribunal in permitting the heirs to be brought on record of the claim petition and permitting the heirs of the injured claimant who died subsequently to proceed further with the claim petition. However, the claim petition and even appeal for enhancement would be confine to the claim for the loss to the estate as observed hereinabove.”

15. Similar view has been taken by the Punjab & Haryana High Court in Joti Ram vs. Chamanlal, AIR 1985 P&H 2 and the Madras High Court in Thailammai vs. A.V. Mallayya Pillai, 1991 ACJ 185 (Mad).

16. The view taken in Kanamma (supra) and Uttam Kumar (supra) that the claim would abate is based on a narrow interpretation of the Act which does not commend to us. The reasoning of the Gujarat High Court is more in consonance with aim, purpose and spirit of the Act and furthers its real intent and purpose which we therefore approve.

17. The injuries suffered by the deceased in the accident required prolonged hospitalization for six months. The extent of disability suffered was assessed on 16.06.2000 as 100%. The extent of disability, pursuant to physiotherapy was reassessed as 75% on 08.08.2002. In the interregnum, the injured resigned his job on 30.09.2001 at the age of 53 years as he found movement difficult and inconvenient without an attendant as distinct from complete immobility. The injured was possessing professional qualifications in labour laws and Industrial



relations along with a Diploma in Personnel Management. He may have had to suffer some handicap in also practicing before the labour court, but cannot be held to have suffered 100% physical disability as his capacity for rendering advisory and other work coupled with movement on a wheel chair with the aid of an attendant could still facilitate a reduced earning capacity. It cannot be held that the injured was completely left with no source of livelihood except to deplete his estate. In assessing, what has been described as a 'Just Compensation' under the Act, all factors including possibilities have to be kept in mind.

18. The Tribunal, on technicalities rejected his claim for salary, medical expenses and percentage of disability and granted a measly compensation of Rupees one lakh only by a cryptic order. We are, therefore, of the opinion that while the claim for personal injuries may not have survived after the death of the injured unrelated to the accident or injuries, during the pendency of the appeal, but the claims for loss of estate caused was available to and could be pursued by the legal representatives of the deceased in the appeal.

19. In Parminder Singh (supra) compensation on the basis of complete loss of income, the percentage of disability, future prospects were granted applying the relevant multiplier. Again, in Kajal (supra) the injured was assessed as 100 per cent disabled, considering all of which compensation was awarded on the notional future prospects along with relevant multiplier. The loss of income to the injured in the facts of the present case has to be assessed at 75%. In view of [Raj Kumar](#) (supra) there shall be no deduction towards personal expenses.

20. We see no reason to deviate from the consistent judicial view taken by more than one High Court that loss of estate would include expenditure on medicines, treatment, diet, attendant, Doctor's fee, etc. including income and future



prospects which would have caused reasonable accretion to the estate but for the sudden expenditure which had to be met from and depleted the estate of the injured, subsequently deceased.”

12. Further, the Motor Vehicles Act is a piece of social welfare legislation, intended to provide just compensation to victims of road accidents and their families. A narrow and literal construction that results in the extinguishment of such rights upon the death of the claimant would defeat the object of the legislation. In view of the authoritative pronouncements of the Hon’ble Supreme Court and the benevolent object of the statute, the finding of the learned Tribunal that the claim abated with the death of Jaimal Singh is legally untenable. Accordingly, the impugned award is set aside.

13. Additionally, it is pertinent to note that Section 163-A has since been substituted by Section 164 of the Motor Vehicles Act, pursuant to the Motor Vehicles (Amendment) Act, 2019, which came into force on 01.04.2022. Section 164 now provides for fixed compensation under no-fault liability regime of Rs.5,00,000/- in the case of death and Rs.2,50,000/- in the case of grievous hurt-irrespective of income.

14. 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 of 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.

15. In view of the above, the present appeal is allowed. Accordingly, the award dated 05.04.2005 is set aside and appellant/claimants is held entitled to compensation to the tune of Rs.2.5 lacs.

16. 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 appellant-claimant is granted the interest @ 9% per annum on the amount of compensation from the date of filing of claim petition till the date of its realization.

17. The respondent-Insurance Company is directed to deposit the amount of compensation alongwith interest with the Tribunal within a period of two months from the receipt of copy of this judgment. Since the claimant-Jaimal Singh has died and his legal heirs have preferred the instant appeal therefore, the Tribunal is directed to disburse the amount of compensation alongwith interest in the account of the legal representative of claimant/appellant-Jaimal Singh in equal share. The legal representative of claimant/appellant-Jaimal Singh claimant/appellant are directed to furnish their bank accounts details to the Tribunal.

18. The Insurance Company is hereby directed to disburse the current scheduled fee to Mr. D.P. Gupta, Advocate within a period of 20 days from the date of receipt of the copy of this judgment, in view of the order dated 18.07.2024 passed in FAO No.1682 of 2007, by this Court.

19. Pending application(s), if any, also stand disposed of.

29.05.2025

Yogesh

**(SUDEEPTI SHARMA)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No