IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-646-2007 (O&M)
Reserved on: 14.05.2025
Pronounced on 29/05/2025

Sikander Abbas Jafri @ S.A. Jafri ......Appellant

Vs.

Ajit Kumar Jain and others ......Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Shivam Sharma, Advocate for
Mr. Ashish Gupta, Advocate
for the appellant.

Mr. Ravinder Arora, Advocate
for the respondent-Insurance Company.

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SUDEEPTI SHARMA J. (ORAL)

The present appeal has been preferred against the award dated 04.08.2006 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 passed by the learned Motor Accident Claims Tribunal, Gurgaon (for short, 'the Tribunal') vide which the claim petition filed by the appellant/claimant for grant of compensation, was dismissed.

FACTS NOT IN DISPUTE

2. Brief facts of the case as mentioned in the claim petition are that on 5.10.2002, the petitioner was proceeding towards his factory situated at Rozka Meo, Sohna on foot on Kachha portion of the road. At about 4.30 p.m. when he reached near Punjab National Bank, Sohna an Indica car bearing registration No. RJ-02-C-4932 appeared from behind, which was being driven by respondent No. 1 rashly and negligently. The car struck with the petitioner

and resultantly the petitioner sustained serious and grievous injuries on his body. The petitioner sustained permanent disability as his both legs were got fractured and crushed. The left leg ankle of the petitioner was dislocated. The petitioner was taken to Thakural Nursing Home, Gurgaon where he was operated upon. He remained confined to bed even after filing of the present claim petition also. He spent an amount of Rs.90,000/- for his treatment. The matter was reported to the police regarding this accident whereupon DDR was registered at S.No. 15 on 6.10.2002 at Police Station Sohna.

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

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

> *1. Whether accident in question was caused by respondent no. 1 by driving Indica car No. RJ-02-C-4932 in a rash and negligent manner? OPP*
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> *2. If issue No.1 is proved, whether claimant is entitled to any compensation on account of injuries, permanent disability suffered by him in the accident and if so, to what extent and from whom? OPP*
>
> *3. Whether respondent no. 1 was not holding a valid and effective driving licence on the date of accident and if so, its effect? OPR(3)*
>
> *4. Relief.*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim-petition. Hence the claimant/appellant filed the present appeal for grant of compensation.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

6. The learned counsel for the claimant-appellant contends as under:-

(i) That the claim petition was dismissed only on the ground that the income of the appellant was more than Rs.40,000/- per year.

(ii) 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.

(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 lakh and in the case of grievous hurt of Rs.2.5 lakh.

iv) That considering the beneficial nature of the Motor Vehicles Act, particularly under Section 163-A, the monthly income of the deceased may be reasonably scaled down to Rs.3,300/- in order to align the annual income with the statutory ceiling of Rs.40,000/- as prescribed under the Second Schedule of the Act.

Therefore, he prays that the present appeal be allowed and compensation be granted to the appellant/claimant as per settled law.

7. *Per contra,* Ld. Counsel for the respondent argues on the lines of the award and contends that the claim petition has rightly been dismissed by the learned Tribunal. Therefore, he prays for dismissal of the appeal.

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

9. Relevant portion of the award passed by the Ld. Tribunal is reproduced as under:-

> *"ISSUE NO.2*
>
> *10. In this case claimant has taken plea that his monthly income at the time of accident was Rs.10,000/- and he was employed as a supervisor in Dutt Medical Products Ltd. Rozka Meo. The age of the claimant at the time of accident was 33 years. PW3 S.A.Jafri also when appeared in the witness box, has stated that his monthly salary at the time of accident was Rs.10,000/- as he was employed as a supervisor. Chander Bhan Yadav, Supervisor appeared in the witness box as PW4 and adduced in evidence salary certificate of claimant as Ex.P25 and salary receipt Ex.P26. These certificates show that monthly salary income of the claimant at the time of accident was Rs.10,134/- including all allowances. Earlier an application was filed by the claimant to restrict the salary income of the claimant as Rs.3300/-per month but that application was dismissed as withdrawn by order dated 27.7.2006. Now it stands proved that monthly income of the claimant at the time of accident was Rs. 10134/-.*
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> *11. During the course of arguments, learned counsel for respondent No. 3 argued that the claim petition is not maintainable as under section 163-A of the Act, only those persons can claim compensation if the annual income of the injured or the deceased, as the case may be, does not exceed Rs.40,000/-. This contention of learned counsel for respondent No. 3 finds support from a Full*

Bench decision of the Hon'ble Supreme Court in case law ***PLR 2004 (1) page 271 in case Deepak Girishbhai Soni and others Vs. United India Insurance Co. Ltd. Baroda****. I have closely perused the above cited case law. In the case law referred above it was held that only those, whose annual income is upto Rs.40,000/-, can take the benefit of the provisions of Section 163-A of the M.V.Act. Other claims are required to be determined in terms of Chapter XII of the Act. Cited case law fully supports the version of the respondent.*

12. On this point learned counsel for the claimant argued that claimant in this case is entitled for compensation under Section 163-A of the Act treating the annual income of the claimant as Rs.40,000/- at the time of accident. The claimant is entitled to abandon his claim on the income more than Rs.40,000/- per year. Learned counsel for the claimant contended that it makes no difference if the annual income of the injured at the time of accident was more than Rs.40,000/-. In support of his this contention learned counsel for the claimant placed his reliance upon case law ***PLR 2005 (2) page 503 (P&H)*** *in case* ***Gurmeet Kaur and others Vs. Hardeep Kaur and another****.*

13. I have closely perused the above cited case law. The cited case law is based on different facts and is not of any help to the claimant in this case. As per facts of that case an application filed by the claimant was allowed to scale down the claim of compensation from Rs.10 lacs to 7 lacs and to mention in their claim petition the correct monthly income of the deceased as Rs.3300/- instead of Rs.4000/-. In these circumstances, it will be proper to follow the decision of Full Bench decision of Hon'ble Supreme Court in case law referred above ***Deepal Girishbhai Soni and others Vs. United India Insurance Co. Ltd.*** *Resultantly, it is held that the claim petition under Section 163-A of the Act is not maintainable and the claimant is not entitled to receive any amount as compensation."*

10. A perusal of the impugned award reveals that the present claim petition was filed under Section 163-A of the Motor Vehicles Act, 1988, which provides for a no-fault liability scheme for compensation. It is well settled that a claim under Section 163-A does not require the claimant to establish negligence or wrongful act on the part of the driver or owner of the offending vehicle. The essential ingredients are: (i) use of a motor vehicle; and (ii) resultant death or permanent disablement. In the instant case, it stands established from the record that the accident was caused by the offending vehicle and the claimant suffered grievous injuries. Thus, the basic requirements under Section 163-A of the Act were satisfied.

11. However, the learned Tribunal proceeded to dismiss the claim solely on the ground that the income of the claimant, as established through Ex.P25 (salary certificate) and Ex.P26 (salary slip), was Rs.10,134/- per month, which amounted to annual income well above the threshold of Rs.40,000/- prescribed under Section 163-A read with the Second Schedule to the Act. It was therefore held that the petition was not maintainable in view of the judgment of the Hon'ble Supreme Court in ***Deepal Girishbhai Soni and Others v. United India Insurance Co. Ltd., PLR 2004 (1) 271.***

12. It is further revealed from the record that the claimant had during the pendency of proceedings before the Tribunal, filed an application seeking to restrict his income to Rs.3,300/- per month (Rs.39,600/- per annum), thereby bringing his claim within the permissible limits under Section 163-A of the Act. Although the said application was later dismissed as withdrawn, this procedural aspect cannot override the substantive rights of the claimant, especially in the context of a beneficial legislation such as the Motor Vehicles Act.

13. It is trite that the Motor Vehicles Act is a remedial and welfare-oriented statute, enacted with the object of providing expeditious compensation to accident victims and their dependents. Therefore, it calls for liberal interpretation to achieve the underlying legislative intent, as reiterated by the Hon'ble Supreme Court in various pronouncements. Reference at this stage can be made to judgment passed by Hon'ble Apex Court in ***B.D. Pandey v. Union of India, AIR 1982 SC 1178,*** wherein the Hon'ble Apex Court held as under:-

> *"Where legislation is designed to give relief to the weak and vulnerable, the court must adopt a liberal approach so as to ensure that the benefit reaches the targeted class."*

14. Further Hon'ble Apex Court in ***Skandia Insurance Co. Ltd. v. Kokilaben Chandravadan, (1987) 2 SCC 654***, held as under:-

> *"The Motor Vehicles Act is a piece of social welfare legislation and its provisions should be interpreted in a manner which advances the remedy and suppresses the mischief.*

15. 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. Moreover, the condition previously stipulated under the Second Schedule to Section 163-A, which restricted its applicability to cases where the annual income of the deceased or injured exceeded Rs. 40,000/-, has been expressly omitted under the new Section 164.

The legislative objective behind this change appears to be the removal of income-based limitations in order to ensure broader and more equitable access to compensation under the no-fault liability framework, thereby simplifying the claims process and ensuring uniformity in the award of compensation.

16. In view of the above, this Court holds that a liberal, purposive, and justice-oriented interpretation of the provisions of the Motor Vehicles Act is not only warranted but imperative.

17. 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.*
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> *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."*

18. In view of the above, the present appeal is ***allowed***. Accordingly, the award dated 04.08.2006 is set aside and appellant/claimant is held entitled to compensation to the tune of Rs.5 lacs.

19. 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.

20. 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. The Tribunal is directed to disburse the amount of compensation alongwith interest in the account of the claimant/appellant. The claimant/appellant is directed to furnish his bank accounts details to the Tribunal.

21. The Insurance Company is hereby directed to disburse the current scheduled fee to Mr. Ravinder Arora, 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.

22. Pending applications, if any, stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

29 / 5 / 2025
sonia arora

Whether speaking/reasoned: Speaking
Whether reportable Yes /No