



FAO-3941-2008 (O&M)

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

FAO-3941-2008 (O&M)

Reserved on : 31.10.2025

Date of Pronouncement:12.11.2025

Mahender Singh and others

.....Appellants

Vs.

Rajesh Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Sandeep Kotla, Advocate,
for the appellants.

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

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 20.12.2007 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Fatehabad (for short, 'the Tribunal') for enhancement of compensation granted to the appellants/claimants on account of death of Khajan Kaur, who died in a motor vehicular accident occurred on 19.09.2004, whereby the appellants/claimants were granted compensation to the tune of Rs.3,62,000/- along with interest @ 9% per annum.

2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case are not reproduced for the sake of brevity.



SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. Learned counsel for the appellants/claimants has made the following submissions:-

i) That the amount assessed by the learned Tribunal is on the lower side.

ii) The learned counsel for the appellants/claimants contends that the amount assessed by the learned Tribunal is on the lower side. He further contends that the petition was filed under Section 163-A of the Motor Vehicles Act, 1988, in which only accident is to be proved and not the negligence of the parties. Thus, holding of the liability of the Insurance Company to pay the compensation to the extent of 80% is not sustainable. The finding of learned Tribunal on the issue of contributory negligence is, thus, unsustainable in the eyes of law and is liable to be set aside.

iii) 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 should be enhanced as per the substituted statutory provision i.e. Section 164 of the Act.

iv) 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.

4. *Per contra*, learned counsel for the respondent-Insurance Company, however, vehemently argues that the award has rightly been passed and the amount of compensation as assessed by the learned Tribunal has rightly been granted.

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

6. A perusal of the award shows that in the present case the appellants/claimants filed the claim petition seeking compensation on account of the death of Khajan Kaur.

7. Further perusal of the award indicates that the claim petition was filed under Section 163-A of the Motor Vehicles Act. Compensation granted under this section is determined by a structured formula,



constituting a final award, without requiring proof of negligence by the driver or the owner of the vehicle involved in the accident. It is a well settled legal principle, as affirmed by the Hon'ble Supreme Court in ***United India Insurance Company Ltd. Versus Sunil Kumar***, Civil Appeal No.9694 of 2013 that claims under Section 163-A of the Motor Vehicles Act, 1988 are predicated on principle of no fault liability and compensation is to be awarded without the necessity of proving negligence. The relevant extract of the same is reproduced as under:-

“8. From the above discussion, it is clear that grant of compensation under Section 163-A of the Act on the basis of the structured formula is in the nature of a final award and the adjudication thereunder is required to be made without any requirement of any proof of negligence of the driver/owner of the vehicle(s) involved in the accident. This is made explicit by Section 163A(2). Though the aforesaid section of the Act does not specifically exclude a possible defence of the Insurer based on the negligence of the claimant as contemplated by Section 140(4), to permit such defence to be introduced by the Insurer and/or to understand the provisions of Section 163A of the Act to be contemplating any such situation would go contrary to the very legislative object behind introduction of Section 163A of the Act, namely, final compensation within a limited time frame on the basis of the structured formula to overcome situations where the claims of compensation on the basis of fault liability was taking an unduly long time. In fact, to understand Section 163A of the Act to permit the Insurer to raise the defence of negligence would be to bring a proceeding under Section 163A of the Act at par with the proceeding under Section 166 of the Act which would not only be self-contradictory but also defeat the very legislative intention.

9. For the aforesaid reasons, we answer the question arising by holding that in a proceeding under Section 163A of the Act it is not open for the Insurer to raise any defence of negligence on the part of the victim.”



8. A bare perusal of the entire evidence on record leaves no room for doubt that the accident in question was caused by the involvement of the offending truck bearing registration No.HR-39-2288. The testimonies of PW1, coupled with registration of FIR and the circumstances of the case, clearly demonstrate that the accident arose out of the use of the above vehicle, thereby satisfying the statutory requirement under Section 163-A of the Motor Vehicles Act, 1988. Consequently, the finding of learned Tribunal qua contributory negligence is hereby set aside.

9. 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), compensation is liable to be enhanced as per the substituted statutory provision i.e. Section 164 of the Motor Vehicles Act, 1988, therefore, the appellants/claimants herein are 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 case of death in the amount of Rs.5 lakhs and in case of grievous hurt of Rs.2.5 lakhs.

10. 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."

11. In view of the above, the present appeal is **allowed**.

Accordingly, the award dated 20.12.2007 is modified by converting the claim petition under Section 163-A (pre 2018 amendment) to Section 164 (post 2018 amendment) of the Motor Vehicles Act, 1988.

12. In view of the above, the claimants/appellants are held entitled to enhance amount of compensation to the tune of **Rs.1,28,000/-** (Rs.5,00,000 – Rs.3,62,000).

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 appellants/claimants are 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 respondent No.3-Insurance Company is directed to deposit

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the enhanced amount of compensation in the first instance along with interest with the learned Tribunal within a period of two months from the date of receipt of copy of this judgment, as per award dated 20.12.2007. However, respondent No.3-Insurance Company is at liberty to recover the same from respondent No.2. The learned Tribunal is further directed to disburse the enhanced amount of compensation along with interest in the account of the appellants/claimants. The appellants/claimants is directed to furnish their bank account details to the learned Tribunal.

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

(SUDEEPTI SHARMA)
JUDGE

12.11.2025

Virender

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No