



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

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FAO-3181-2007 (O&M)

Date of Decision: 29.04.2025

Suresh and another

.....appellants

Vs.

Karambir and others

.....respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Gaurav Khera, Advocate for the appellants.

Mr. N.K. Malhotra, Advocate
for respondents No.1 and 2

Mr. Pradeep Goyal, Advocate
for respondent No.3-Insurance Company.

SUDEEPTI SHARMA J. (ORAL)

CM-15107-CII-2015

Application is allowed as prayed and copy of award passed by Motor Accident Claims Tribunal, Rohtak in same case, is ordered to be taken on record.

FAO-3181-2007

1. The present appeal has been preferred against the award dated 03.05.2007 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal') for enhancement of compensation, granted to the appellants/claimants to the tune of Rs.1,94,500/-, alongwith interest at the rate of 7.5% per annum on account of death of Tilak Raj, in a Motor Vehicular Accident, occurred on 28.06.2005.



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 is not reproduced and is skipped herein for the sake of brevity.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. The learned counsel for the appellants/claimants contends that the compensation assessed by the learned Tribunal is on the lower side. He further contends that deceased- Tilak Raj was 14 years old at the time of accident who was working as vegetable vendor and earning Rs.3000/-per month. He further contends:

i) That Section 163-A of Motor Vehicles Act, 1988 is 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 Motor Vehicle Act, 1988.

ii) 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.



4. Per contra, learned counsel for respondents No.1 and 2 contends that liability of owner and driver has wrongly been fixed by learned Tribunal and learned counsel for 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. Therefore, they pray for dismissal of the present appeal.

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

6. 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) and compensation should be enhanced as per the substituted statutory provision i.e. Section 164 of the M.V.Act, 1988, therefore, the appellants herein are entitled to be granted the benefit of beneficial provision enacted by the Parliament under Chapter 11 of which Section 164 of the M.V.Act, 1988 provides for payment of compensation in the case of death in the amount of Rs.5 lakh and in the case of grievous hurt of Rs.2.5 lakh.

7. 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."

8. In view of the above, the present appeal is converted from 163-A of the Act to Section 164 of the Act and the claimants/appellants are held entitled to compensation to the tune of **Rs.5 lakh**. The Tribunal has awarded compensation of Rs.1,94,500/- to the claimants/appellants, therefore, now the enhanced amount of **Rs.3,05,500/-** (Rs.5,00,000-1,94,500/-) be disbursed amongst the claimants/appellants as per ratio settled in the award.

9. 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.

10. Vide judgment passed in FAO-3027-2007 of even date, this Court has fixed the liability to pay the compensation as under:-



“Consequently, the award dated 03.05.2007 is modified to the extent that respondent No.3-Insurance Company is solely liable to pay the amount of compensation to the claimants”

11. In view of the above, the respondent-Insurance Company is directed to deposit the enhanced amount alongwith interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The appellants-claimants are directed to furnish their bank account details to the Insurance Company/Tribunal. The Tribunal is directed to disburse the enhanced amount of compensation along with interest in the bank accounts of the appellants-claimants, as per ratio settled in award dated 03.05.2007.

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

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

(SUDEEPTI SHARMA)
JUDGE

29.04.2025
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Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No