

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****219****FAO-1428-2010 (O&M)****Date of decision: 06.02.2025****Jasbir Kaur and others****...Appellant(s)****Vs.****Nachhattar Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Sukhan Rangi Sekhon, Advocate for the appellants.

Mr. Neeraj Khanna, Advocate for
respondent No.3-Insurance Co.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.50,000/- granted by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal') vide Award dated 01.04.2009 passed in a claim petition No. 36 dated 02.06.2006 filed under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 4 claimants are the Widow and 3 children of the deceased Ranjodh Singh, who was stated to have been about 50 years old at the time of accident. The above said compensation was granted under Section 140 of the Act along with interest @ 6% per annum from the date of claim petition till actual payment, under the 'no fault liability' from the respondents jointly and severally.

2. The pleaded case of the claimants before the learned Tribunal



was that on 16.03.2006 deceased Ranjodh Singh alongwith some other persons went to Karnal for purchasing seeds of paddy, on Vehicle no. PB-10-AD-9599 (hereinafter referred to as “the offending vehicle”), which was being driven by respondent no.1, Nachhattar Singh. While returning at about 5 PM, when they reached near Floating Restaurant, Sirhind then the said vehicle turned over. Ranjodh Singh died at the spot. The deceased Ranjodh Singh the only bread winner, was 50 years of age and an agriculturist.

3. Learned counsel for the appellants submits that the compensation awarded to the claimants is on the lower side. The appellants had duly proven the accident by the offending vehicle and even the death of Ranjodh Singh was proven on record. As such, the compensation of at least Rs.5 lacs ought to have been awarded to the appellants.

4. Learned counsel for respondent No.3-Insurance Company opposes the prayer made on behalf of the appellants and submits that no enhancement of compensation is called for as there was no fault on the part of the driver of the offending vehicle. It is submitted that it is the admitted case of the appellants that the offending vehicle had turned turtle due to the burst of tyre. It is contended that as such, the respondents cannot be held liable for the accident.

5. Learned counsel for the appellants counters the submission made on behalf of the respondent-Insurance Company and refers to judgment of a Coordinate Bench of this Court in ***‘Roshan Lal vs. Jarnail***

Singh’ Law Finder Doc Id # 576693, wherein it is held as follows:-



*“.....A tyre burst on the road is result of poor upkeep of one of the most important parts in a four-wheeler. It shall be no defence for an owner to plead that a burst of tyre that makes the driver lose his control over the vehicle to result in an inference that there was no negligence. When a contention is taken before the Tribunal that there was a negligent driving by the driver and it is sought to be explained by the driver that he was careful in his driving and he had kept the vehicle in a state of repair, he was bound to bring before the Tribunal all the evidence of the care that he had taken for the regular upkeep of the tyres. A tyre that is properly maintained is not expected to burst or if it burst, and the driver was unable to control the steering and let it go into a ditch, it is illustrative of the principle of res ipsa loquitur. This issue is also not without precedents and governed by a large volume of case law from every **High Court**. In **Darshan Kumari and others v. State of Punjab and others, 2007 (4) PLR 219**, a bench of this court held that bursting of tyre cannot be taken as an act of God to enable the driver or the owner to escape liability. In this regard, we may refer the Motor Vehicle Laws 14th Edition, Lexis Nexis. Volume 2 pages 1578-1579 that deal with the cases from every High Court of India taking homogeneously similar view casting the liability on the owner or the driver for any mechanical failure or bursting of tyres.”*

6. It is accordingly prayed that the appellants are entitled to get at least the maximum compensation as payable in a petition under Section 163-A of the Act.

7. No other argument is raised on behalf of the parties.

8. I have heard learned counsel for the parties and perused the case file in great detail.



9. It is admitted fact on record that death of Ranjodh Singh took place as the offending vehicle had turned turtle due to the tyre burst on the road. As observed by this Court in above referred judgment of ***Roshan Lal's case (supra)***, the tyre burst on road is a result of poor upkeep of the vehicle. It has been held in the said judgment that the same would count as negligence on the part of the respondents. Furthermore, all that is required to prove in a claim petition under Section 163-A of the Act is that the accident had occurred.

10. In the present case, the accident is not denied by the respondents. Hence, it has been wrongly observed that this case is not covered under Section 163-A of the Motor Vehicles Act, although the death of Ranjodh Singh took place with the turning turtle of the offending vehicle. This observation of the Id. Tribunal is contrary to the provisions of Section 163-A, where the Court is not required to go into the negligence and rashness on the part of the driver of offending vehicle. Under Section 163-A, the claimants were required to prove only the death arising out of the road accident, which has been duly approved in the present case, and it is immaterial as to in which manner the accident has taken place. It is proved on record that at the time of accident, the offending vehicle was insured with respondent no.3 i.e. Oriental Insurance Company and respondent no.1 was holding a legal and valid driving licence. Moreover, as per the ratio of the above judgment, accident was caused due to the negligence of the respondent.

11. Considering the above said undisputed factual and legal position, the present appeal is **allowed**. However, as per the mandate of Section 163-A of the Act, compensation beyond Rs. 5 lakhs is not admissible to the claimants under the said provision. Accordingly, the compensation awarded to the appellants is enhanced by Rs.4,50,000/- (Rs.5,00,000-Rs.50,000) to be paid by the respondents jointly and severally within a period of 2 months from the date of receipt of copy of this order failing which the appellants would be entitled to interest @ 9% per annum.
12. Pending application(s) if any also stand(s) disposed of.

06.02.2025

Divyanshi

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No