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

**FAO-3522-2025 (O&M)  
Reserved on: 22.07.2025  
Date of decision: 22.08.2025**

**UNITED INDIA INSURANCE CO. LTD.**

**..Appellant**

**Versus**

**RAJINDER KAUR AND OTHERS**

**..Respondents**

**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

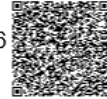
Present: Mr. Vinod Gupta, Advocate  
for the appellant.

**SUDEEPTI SHARMA, J.**

1. The present appeal has been filed by the appellant-Insurance company against the award dated 18.03.2025 passed in a claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Bathinda (for short, 'the Tribunal'), wherein the claim petition filed by the claimants was allowed and appellant-Insurance company was made liable to pay at first instance and recovery rights were granted to recover the same from respondent No.1 to 4 jointly and severally.

**BRIEF FACTS OF THE CASE**

2. Brief facts of the case are that that on 16.08.2017, Harmanpreet Singh, had gone to Rose Marry School, Balluana when he was coming back alongwith his colleagues namely Jagdeep Singh and Dharmpreet Singh on motor cycle being driven by Harmanpreet



Singh and they were being followed by Jagjit Singh (claimant no. 2) father of Harmanpreet Singh, who (father) had gone to school to enquire about the study of Harmanpreet Singh. When they reached on main road, then bus no. PB-03AJ-6874 was coming from backside being driven by its driver respondent no. 1 in a rash and negligent manner without giving any horn/signal struck the motor cycle, due to which motorcycle fell down and all the occupants also fell on the ground and received injuries and in the meantime school bus/van came there and took the injured to Civil Hospital, Bathinda, where Harmanpreet Singh succumbed due to head injury, which was caused by the respondent No.1 while driving the abovesaid vehicle on very high speed in a rash and negligent manner and out of use of the motor vehicle. The pillion riders who also received serious injuries were referred to Kalra Hospital, Bathinda.

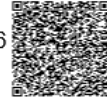
3. Upon notice of the claim petition, respondents appeared and contested the claim petition by filing their separate written replies denying the factum of accident/compensation.

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

*1. Whether Harmanpreet Singh son of Jagjit Singh died due to accident caused by respondent Pavittar Singh @ Pamma while driving PRTC Bus bearing No.PB-03AJ-6874 rashly and negligently?OPP.*

*2. Whether the claimants are entitled to claim any compensation, if so, to what extent and from whom?OPP.*

*3. Whether the claim petition is not maintainable?OPR.*



*4. Whether the claim petition is bad for non-joinder of necessary parties and mis-joinder of parties? OPR.*

*5. Relief.*

5. Thereafter, both the parties led their evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the appellant-Insurance company was made liable to pay at first instance and recovery rights were granted to recover the same from respondent No.1 to 4 jointly and severally.

**SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT:**

7. Learned counsel for the appellant-Insurance Company contends that the claim petition was originally filed under Section 163-A of the Motor Vehicles Act. During its pendency, by virtue of the Motor Vehicles (Amendment) Act, 2019, Section 163-A was omitted and replaced by Section 164, whereupon the claimants sought conversion of the petition under Section 164.

8. He further contends that the learned Tribunal erred in treating the instant petition under Section 166 of the Act, despite there being no application or consent from the claimants. Such a course, it is urged, is legally unsustainable. Therefore, he prays that the present appeal be allowed.

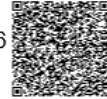
9. I have heard learned counsel for the appellant and perused the whole case file with his able assistance.

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



*“29) Onus to prove this issue was on the claimants. Since the present petition is treated under Section 166 of Motor Vehicle Act, it has been seen that accident took place due to the rash and negligent driving of Bus bearing registration No.PB-03AJ-6874 by respondent No.1. Under Section 168 of the Act, a Claims Tribunal is enjoined to hold an inquiry to determine compensation which must appear to it to be just. Strict rules of evidence are not applicable in an inquiry conducted by the Claims Tribunal. In State of Mysore v. S.S. Makapur, 1993 (2) SCR 943, the Hon'ble Supreme Court held that the Tribunals exercising quasi-judicial functions are not courts and are not bound by strict rules of evidence. The relevant portion of the report in State of Mysore (supra) is extracted hereunder:*

*".....that tribunals exercising quasi-judicial functions are not courts and that therefore they are not bound to follow the procedure prescribed for trial of actions in courts nor are they bound by strict rules of evidence. They can unlike courts, obtain all information for the points under the enquiry from all sources, and through all channels, without being fettered by rules and procedure, which govern proceedings in court. The only obligation which the law casts on them is that they should not act on any information which they may receive unless they put it to the party against whom it is to be used and give him a fair opportunity to explain it. What is a fair opportunity depend on the facts and*

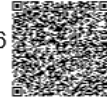


*circumstances of each case but where such an opportunity has been given, the proceedings are not open to attack on the ground that the enquiry was not conducted in accordance with the procedure followed in courts."*

30) In ***Bimla Devi and Ors. v. Himachal Road Transport Corporation and Ors., (2009) 13 SC 530***, the Hon'ble Apex Court held that in a Petition under Section 166 of the Act, the Claimants were merely to establish their case on the touchstone of preponderance of probability and holistic view is to be taken while dealing with the Claim Petition under the Motor Vehicles Act. Para 15 is extracted hereunder:

*"15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied."*

31) Onus to prove this issue is placed upon the claimants. In order to prove the negligence on the part of respondent No.1, the claimant No.1 stepped into the witness box as CW1 and she has tendered her affidavit Ex.CW1/A. This court has thoroughly gone through cross-examination of this witness. As per examination-in-chief, she has specifically deposed regarding the fact that respondent No.1



*was driving the offending vehicle in a rash and negligent manner. Claimant No.2 has also stepped into the witness box and has tendered the affidavit Ex.CW2/A, in which he has deposed that he was also present when the accident took place. He was going behind the bullet of the deceased and he was also going to the school of the deceased. On this point, Ld. Counsel for the respondent No.4 Insurance company has laid much stress that the presence of this witness at the place of accident is doubtful due to the reason that when he was asked questions in the cross-examination regarding the reason why he was going to school and other questions, he was unable to answer logically. To the contrary, this court is of the opinion that there is sufficient evidence on record to show that it was respondent No.1, who was driving the vehicle in a rash and negligent manner. There is FIR in question which is placed on record as Ex.C7, copy of the judgment passed by the ld. JMIC, Bathinda, which is placed on record as Ex.C15. All these facts are sufficient to prove the negligence on the part of respondent No.1. However, this court has further observed that witness has specifically stated in examination-in-chief as well as cross-examination the fact that respondent no. 1 was driving the Bus at the time of accident. The evidence is reliable.*

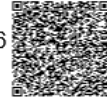
*32) Hon'ble High Court of Punjab and Haryana in case titled as Girdhari Lal Vs. Radhe Shyam and other 1993 (2) PLR 109 has observed that when the driver was facing criminal trial, it has to be prima-facie concluded that the accident took place due to his rash and negligent driving.*



*33) In National Insurance Co. Ltd. Vs. Pushpa Rana and others 2009 ACJ 287, Hon'ble Delhi High Court has held that certified copy of criminal code record such as FIR, recovery memo and mechanical inspection report are sufficient to reach the conclusion that driver was driving the vehicle rashly. Proceedings Under M.V. Act akin to proceeding in a civil suit and hence strict rules of evidence are not required to be followed in this regard.*

*34) In view of aforesaid discussion, this Tribunal has no hesitation to hold that testimony of CW1 and CW2 is reliable, consistent and trustworthy and respondent has failed to his shake creditworthiness. On the basis of their testimonies and other material placed on record, it stands established that accident took place due to rash and negligent driving of respondent No.1 in driving the offending Bus. Therefore, this issue is decided against the respondents and in favour of claimants.”*

11. Before advertng to the submissions of learned counsel for the appellant-Insurance Company, it is necessary to bear in mind that the Motor Vehicles Act, 1988 is a piece of social welfare legislation intended to provide just and fair compensation to the victims of road accidents and their dependents. Being a beneficial statute, it deserves to be interpreted in a manner that advances the object of the law and protects the rights of victims, rather than defeating the legislative intent by adherence to mere procedural or

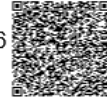


technical formalities. In this backdrop, the present matter is being examined.

12. A perusal of the impugned award reveals that the claim petition was initially filed under Section 163-A of the Act, seeking compensation on account of the untimely demise of Harmanpreet (hereinafter referred to as the deceased) in the accident in question. During the pendency of the proceedings, the claimants moved an application requesting that the claim petition be treated under the amended provisions of Section 164 of the Act.

13. The contention raised on behalf of the appellant—Insurance Company that the learned Tribunal, in the absence of any specific application or consent of the claimants, erred in converting the petition into one under Section 166 of the Act. However, this argument is not borne out from the record. On the contrary, the award itself records that the claimants had prayed that their claim petition be considered either under Section 164 or, in the alternative, under Section 166 of the Act.

14. The learned Tribunal, while appreciating the evidence on record and keeping in view the judgment of this Court in **Mamta and others v. Happy and others (FAO-195-2006, decided on 29.05.2024)**, proceeded to treat the petition under Section 166 of the Act. In **Mamta (supra)**, this Court, considering the beneficial nature of the Motor Vehicles Act, laid down detailed guidelines for Motor Accident Claims Tribunals (MACTs). It was specifically held that the Tribunal, upon appreciation of evidence and assessment of the facts and circumstances of the case, has a duty to apprise the claimants of the



most efficacious remedy available to them. Even where a petition is filed under Sections 140 or 163-A of the pre-amended Act, or under Section 164 post-amendment, the Tribunal is empowered and indeed bound in the interest of justice, to advise the claimants to opt for Section 166 if negligence of the offending vehicle is established, and thereafter to award compensation under that provision. The relevant extract of **Mamta' case (supra)** is extracted as under:-

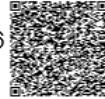
*“47. In view of the above, the following guidelines are being issued to the learned Tribunals:-*

- 1. The learned Tribunals upon receiving the application under Sections 140, 163-A of the Motor Vehicles Act, 1988 (pre- amendment i.e. 2019 amendment w.e.f. 01.04.2022), Sections 164 and 166 (post-amendment i.e. 2019 amendment w.e.f. 01.04.2022). shall thoroughly appreciate the evidence and exercise their judicial discretion.*
- 2. The learned Tribunals after applying their judicial mind to the evidence led as well as all relevant facts and circumstances of the case and the extent of loss to be compensated, shall, before announcing the award, shall apprise the claimants of their right to seek compensation, under the best available remedy to them, under the Motor Vehicles Act, 1988;*
- 3. Even if the claim petition is filed under Sections 140, 163-A of the Motor Vehicles Act, 1988 (pre-*



*amendment i.e. 2019 amendment wef 01.04.2022) or Sections 164, learned Tribunal shall after appreciation of the evidence and before passing the award if it finds that respondents negligence is established should advice the claimant, in the interest of justice, to opt for Section 166 of the Motor Vehicles Act, 1988. The learned Tribunals shall then grant compensation under Section 166 of the Motor Vehicles Act, 1988 (post-amendment ie. 2019 amendment wef 01.04.2022), keeping in view the law settled by the Hon ble Apex Court in the case of Sarla Verma (Supra), Branar Serki (Supra) and Magma Insurance Company Ltd. (Supra);*

*4. It is further clarified that with the 2019 amendment (w.e.f 01.04.2022) Section 164 is introduced where the owner of the motor vehicle or the authorized insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and half lakh rupees in case of grievous hut to the legal heirs of the victim, as the case may be, and the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was*



*due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person. Therefore, the claim petition originally filed under Section 164 of the Motor Vehicles Act, 1988 post- amendment i.e. 2019 amendment w.e.f. 01.04 2022), can also be converted to Section 166 of the Motor Vehicles Act, 1988, with due diligence, after considering the case's facts, circumstances and evidence led by both the parties.*

*5. The Judge should not go into the technicalities of the provisions, specially in motor vehicle cases, under which the application or petition is moved but should apply his judicial mind, since these are only the irregularities and not illegalities which cannot be cured. The Hon'ble Supreme Court in the above mentioned judgments have analysed that the Court should make every effort to fill the loss of the victims/legal-representatives/claimants/relationship. 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.*

*6. 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. The rationale underlying the dictum in **Mamta’s case (supra)** is that victims of accidents and their legal representatives are often unaware of the nuances of legal provisions, and it is largely at the behest of their counsel that petitions are filed under a particular section. Once evidence is brought on record and negligence is proved, the Tribunal, being a Court of original jurisdiction vested with the responsibility to ensure just compensation, cannot remain a mute spectator and must apply its judicial mind to determine under which provision the claimants stand entitled to the most beneficial relief.

16. It is also pertinent to note that in the present case, the learned Tribunal found clear evidence of rash and negligent driving on the part of respondent No.1, who stood convicted under Sections 304-A, 279, 337, and 427 IPC by the criminal Court. There was no material on record to suggest contributory negligence on the part of the deceased. In such circumstances, the learned Tribunal rightly invoked the ratio of **Mamta’s case (supra)** and converted the petition into under Section 166 of the Act.

17. The argument of the appellant that a specific application was a *sine qua non* for such conversion is wholly untenable. The guidelines in **Mamta’s case (supra)** nowhere mandate the filing of a separate application. On the contrary, they recognize the *suo motu*



duty of the Tribunal to mould the relief in accordance with justice, equity, and good conscience, provided the evidence establishes negligence. Such an exercise of jurisdiction cannot be characterized as beyond authority; rather, it is in consonance with the beneficial object of the Act and the law declared by this Court.

18. In view of the above discussion, this Court is of the considered view that the Tribunal has correctly appreciated the evidence, applied the binding precedent of *Mamta's case (supra)*, and justifiably converted the petition under Section 166 of the Act. The findings recorded are well-founded in law as well as on facts, and no ground for interference is made out in appellate jurisdiction.

19. Consequently, the present appeal, being devoid of any merit, is dismissed.

20. Further it is hereby directed that the statutory amount of Rs.25,000/- deposited by the appellant at the time of filing of appeal in the Registry of this Court be returned to him.

21 Pending miscellaneous applications, if any, are also disposed of.

**August 22<sup>nd</sup>, 2025**

*Ayub*

**(SUDEEPTI SHARMA)  
JUDGE**

*Whether speaking/reasoned* : *Yes/No*  
*Whether reportable* : *Yes/No*