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

FAO-5241-2013 (O&M)

Date of Decision : 05.05.2025

Salinder Singh

... Appellant(s)

Versus

Om Parkash & Anr

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Amrinder Sidhu, Advocate for respondent No.2.

None for respondent No.1 despite service.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the claimant-appellant challenging the impugned award dated 29.05.2013 passed by the Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'Tribunal'). Vide the impugned award, two claim petitions were disposed off. Salinder Singh (appellant herein), who is the claimant in MACT No.47 of 2012, aggrieved by dismissal of the claim petition, has preferred the present appeal.

2. Brief facts relevant to the present *lis* are that on 25.04.2012 one Jaswinder Singh @ Bittu alongwith his father Pyara Singh were going from Village Dera Ram Nagar to Kurukshetra on a motorcycle bearing Registration No.HR-07M-2050. The rider of the motorcycle was Jaswinder Singh who was driving the same at a normal speed and on the left side of the road. At about 10.30 am, when they reached between Village Bachgawa and Village Ghimur-Kheri, a car bearing Registration No.HR-06M-5188

(hereinafter referred to as 'offending vehicle') came at a high speed and hit the motorcycle. The offending vehicle was being driven by respondent No.1 in a rash and negligent manner. Jaswinder Singh and Pyara Singh both fell in the side ditches of the road and got entangled in a *Kikkar* tree and suffered serious injuries. Both Jaswinder Singh and Pyara Singh later succumbed to their injuries. FIR bearing No.107 dated 25.04.2012 was registered under Section 279, 337, 304-A of the Indian Penal Code, 1860. Two claim petitions were filed - one by the wife of Jaswinder Singh and one by the son of Pyara Singh. The claim petition filed by the present claimant-appellant (son of Pyara Singh) was dismissed only on the ground that his sister i.e. daughter of Pyara Singh had not been impleaded as a party. Hence, the present appeal.

3. Learned counsel for the claimant-appellant would contend that the claim petition could have been preferred by all the legal representatives or by one of the legal representatives. In support of his contentions he has relied upon the judgment of the Hon'ble Supreme Court in the case of **Janabai & Ors. Vs. M/s ICICI Lombard General Insurance Company Ltd. [2022 (4) RCR (Civil) 85]**. It is further the contention of the learned counsel for the claimant-appellant that in the second claim petition which had been filed by the widow of Jaswinder Singh, the liability was held to be that of the Insurance Company.

4. No one has put in appearance on behalf of respondent No.1 despite service.

5. *Per contra* the learned counsel for respondent No.2-Insurance Company, who would be the contesting respondent in the present case since

in the connected claim petition the liability was held to be that of the Insurance Company, has contended that since the daughter of Pyara Singh was not impleaded as a party, the claim petition qua the claimant-appellant has rightly been dismissed.

6. I have heard the learned counsel for the parties.

7. In the present case the only ground for dismissing the claim petition was that the married daughter of Pyara Singh had not been impleaded as a party. Hon'ble Supreme Court in the case of **Janabai** (supra) has held as under :

“11. If the daughters of the deceased have not been impleaded as claimants, it is immaterial as the amount of compensation payable by the tortfeasor will not get enhanced because of the daughters being party to the claim application. It is since the daughters are married, the mother has not impleaded the daughters as the claimants. It is not really of any consequence as held by the High Court.”

8. Non-impleadment of a party would not be a ground for rejection of the claim petition. Section 166(1) of the Motor Vehicles Act, 1988 reads as under :

“166. Application for compensation. - (1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made -
(a) & (b) XXX XXX XXX
(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased;
(d) XXX XXX XXX

9. A perusal of the above reproduced provision of law as well as

the law laid down in **Janabai** (supra) makes it clear that a claim petition can be filed by all or any one of the legal representatives. In view of the clear provisions of law, the impugned award passed by the Tribunal cannot be sustained and the same is accordingly set aside. The matter is remanded to the successor Presiding Officer of the Tribunal concerned for decision of the claim petition afresh, on merits, in accordance with law. Parties shall appear before the Tribunal concerned on **20.05.2025 at 10.00 am**.

10. The present appeal is disposed off. Pending applications, if any, also stand disposed off.

05.05.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO