



S. No.222

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3735 of 2005 (O&M)

Date of Decision:7.4.2026

Smt. Ompati Devi and another

.....Appellants

Vs.

Dharam Pal and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Kamal Mor, Advocate for the appellants.

Mr. Praveen Kumar, DAG, Haryana.

Yashvir Singh Rathor, J. (Oral)

1. This appeal has been preferred against the Award dated 25.5.2005 passed in MACT Case No.127 of 2002 by Motor Accident Claims Tribunal, Kaithal vide which petition under Section 166/140 of Motor Vehicles Act, 1988 (**for short, 'Act'**) seeking compensation, on account of death of Ishwar Singh in a motor vehicular accident which allegedly took place while boarding the bus due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle bearing No.HR-08-8091 (**hereinafter referred to as 'offending bus'**) has been dismissed.

2. It is pertinent to mention that the record of the present appeal and the Tribunal has got burnt in a fire incident in the High Court Branch and the present appeal has to be decided on the basis of the facts and evidence discussed by the Tribunal in the impugned award.



3. Case of the claimants is that on 24.11.1999 at about 7:00 PM, deceased – Ishwar Singh was going to his Village Karora after finishing his duties at Bus Stand, Kaithal. Deceased was trying to board Bus No.HR-08/8091 from the front window but the driver of offending bus i.e. respondent No.1 without seeing the front window and without the whistle having been blown by the conductor started the bus at a high speed as a result of which, deceased who was in the process of boarding the bus slipped and fell down and thereafter, the rear wheel of the bus crushed his left leg. The accident thus took place on account of rash and negligent driving on the part of respondent No.1. Ishwar Singh was shifted to General Hospital, Kaithal by Ram Kumar son of Gurdyal who was also sitting in the said bus from where he was referred to PGI, Rohtak where his leg was amputated and grafting was done. However, infection remained in the body of Ishwar Singh from 25.11.1999 till 30.6.2002 i.e. when he died. With these allegations, claimants have claimed compensation to the tune of Rs.10 lakhs.

4. Upon notice, respondent No.1, 2 and 4 filed separate written statements. Respondent No.1 in his written statement has challenged the petition on the grounds of estoppel, limitation and cause of action. It is submitted that on 24.11.1999, Ishwar Singh had given his statement to Madan Lal, ASI to the effect that on the day of occurrence, when he was trying to board Bus No.HR-08/8091, he fell down and his left leg came under the rear tyre of the bus which was being driven by Sadhu Ram son of Hawa Singh, Driver No.SPL-120 resident of Village Karora. It is submitted that said Sadhu Ram was close to deceased Ishwar Singh and he filed the claim petition against the answering respondent to save said



Sadhu Ram from the penal consequences and respondent No.1- Dharam Pal has been wrongly named as driver of the offending bus. Ishwar was taken to the hospital by driver namely Chandgi Ram and he had not suffered any injury on account of accident and as such, no criminal case was got registered by him and no claim petition was filed under Motor Vehicles Act by him during his lifetime. Respondent No.1 has denied the allegations that he was driving bus No.HR-08/8091 and infact, he was on duty on bus No.HR-45/1691 from Kaithal to Delhi on the date of accident and false petition has been filed by suppressing the true facts. Dismissal of the claim petition was prayed for.

5. Respondents No.2 and 3 have also taken an objection that respondent No.1 was on duty on Bus No.HR-45/1691 and not on duty on bus No.HR-08/8091 on that day and they have also sought dismissal of the claim petition.

6. Respondent No.4 has also taken all the objections and it has been contended that respondent No.1 has been falsely named as driver of the offending vehicle and dismissal of the claim petition has been sought.

7. Replication was filed and from the pleading of the parties, following issues were framed by the Tribunal:-

“1. Whether the accident in question resulting into death of Ishwar Singh dated 24.11.1999 took place due to rash and negligent driving of Bus No.HR-08/8091 by respondent No.1?OPP

2. If issue No.1 is proved, the claimants are entitled to compensation on account of death of Ishwar Singh, if so to what amount and from whom?OPP

3. Whether the claimants are estopped from filing the petition by their own act and conduct?OPR



4. *Whether the claimants have no locus standi to file the present petition? OPR*

5. *Whether the present petition is not maintainable? OPR*

6. *Whether the driver of the offending bus was not holding a valid driving licence at the time of accident? OPR4*

7. *Relief."*

8. Thereafter, both the parties led their evidence.

9. After hearing the parties, learned Tribunal came to the conclusion that the accident in question had taken place on 24.11.1999 at 7:00 PM and Ishwar Singh (since deceased) who was employed as a Conductor in Haryana Roadways Kaithal was attempting to board Bus No.HR-08/8091. However, Ishwar Singh himself had got recorded DDR Ex.P10 before the police and he had not blamed the driver of bus No.HR-08/8091. Rather, he had stated that the accident took place when he tried to board the bus and due to jerk, he slipped and fell down and suffered the injuries. He did not attribute negligence on the part of driver of bus No.HR-08/8091. It was further held that Ishwar Singh after recovering from the injuries again joined his duties as Conductor at Bus Stand Pundri. He never agitated the matter regarding non registration of FIR against driver of the offending bus till his death. It was further held that there is no proximity between the accident and the death of Ishwar Singh and infact, he had died a natural death and thereafter, no post mortem examination was got conducted on the dead body of Ishwar Singh. It was lastly concluded that the driver of the offending bus cannot be held responsible for rash and negligent driving and no liability can be fastened upon him and the claim petition was dismissed and no compensation was awarded.



10. Feeling aggrieved, appeal in hand has been preferred. Both the parties have been heard and material on file has been perused.

11. Learned counsel for the appellants argued that the impugned award is liable to be set aside as the same is based on conjectures and surmises. Learned counsel next contended that Tribunal has erred in law in dismissing the claim petition and instead of dismissing the claim petition, the Tribunal ought to have awarded some amount of compensation under Section 163-A of the Act or under the principle of no fault liability as it was established from the evidence on file that deceased had suffered grievous injuries in the accident in question. He further contended that it is not in dispute that Ishwar Singh had suffered amputation of left leg and had he filed a petition under Section 163-A of the Act, he would certainly have been entitled to compensation. Learned counsel next contended that now the provision of Section 163-A of the Act has been replaced by Section 164 of the Act vide Act No.32 of 2019 and under Section 164 of the Amended Act, Ishwar Singh would have been entitled to compensation to the tune of Rs.2,50,000/- as he had suffered grievous injuries. Learned counsel next contended that the benefit of beneficial provision enacted by the Parliament should be given to the appellants and they should be awarded compensation to the tune of Rs.2,50,000/-. In support of his contention, learned counsel has also relied upon the judgment of Hon'ble Supreme Court in 2023 ACJ 631 – **Ram Murti and others Vs. Punjab State Electricity Board.**



12. On the other hand, learned counsel for the respondents argued that the award passed by the learned Tribunal is legal and valid and does not call for any interference.

13. Learned Tribunal after going through the evidence on file has come to the conclusion that accident in question had taken place when said Ishwar Singh was trying to board the offending bus and he slipped and the rear tyre of the bus crossed over his leg which ultimately led to amputation of his left leg. He never agitated before anyone regarding non registration of FIR and had rather got registered DDR Ex.P10 with the police to the effect that no one was responsible for the incident. Likewise, he remained alive from the date of accident i.e. 25.11.1999 till 30.6.2002 i.e. for more than two and half years and he thus died a natural death. No post mortem was got conducted to establish that Ishwar Singh had died on account of injuries suffered by him in the said accident and there was thus no proximity between accident and death and learned Tribunal thus rightly came to the conclusion that Ishwar Singh had not died on account of injuries suffered by him in the said accident and claim for compensation was thus rightly rejected.

14. However, it is not in dispute that Ishwar Singh had suffered injuries resulting in amputation of left leg when he tried to board Bus No.HR-08/8091 and as such, the accident took place on account of use of vehicle. It is pertinent to mention that had Ishwar Singh filed a petition during his lifetime even under Section 163-A of the Act, he would have been entitled to some amount of compensation under no fault liability. In the present case, the claim petition was



filed by his dependents after his death but no compensation has been awarded even under no fault liability or under Section 163-A of the Act despite the fact that Ishwar Singh had suffered amputation of left leg.

15. Hon'ble Supreme Court in **Ram Murti's case (supra)** has held as under:-

"7. The provisions of Section 140 which formed a part of Chapter 10 of the Motor Vehicles Act 1988 were omitted by Act 32 of 2019. Simultaneously, Chapter 11 was substituted of which Section 164 provides for payment of compensation in the case of death in the amount of Rs.5,00,000/- and in the case of grievous hurt of Rs.2,50,000/-.

8. We are inclined to give the appellants the benefit of the beneficial provisions which have been enacted by Parliament. Hence, in modification of the order of the High Court, we direct that the appellants shall be entitled to an amount of Rs.5,00,000/- as compensation. However, if the amount of Rs.50,000 which has been awarded by the High Court has already been paid over, the balance (or the entirety of Rs.5,00,000/- if no amount has been paid) shall be paid over to the appellants by 30 November 2022."

16.. In **Ram Murti's case (supra)**, the petition was filed under Section 166 of Motor Vehicles Act, 1988, which had been dismissed and the accident had taken place before Section 164 of Act came into existence. However, Hon'ble Supreme Court observed that the Motor Vehicles Act is a beneficial provision and



applied the beneficial provision of Section 164 of Motor Vehicles Act retrospectively in cases of no-fault liability under Section 163-A and awarded a lump sum compensation of Rs.5,00,000/- to the claimants in a death case.

17. In the present case, accident took place on 24.11.1999 in which Ishwar Singh had suffered grievous injuries on account of amputation of his left leg and the accident took place on account of use of vehicle. No petition was filed by Ishwar Singh during his lifetime but after his death, the claimants filed the petition under Section 166 of the Act seeking compensation but they failed to prove that accident had taken place due to rash and negligent driving on the part of driver of the offending bus or that deceased died on account of injuries in the said accident. However, it is not in dispute that Ishwar Singh had suffered amputation of left leg and had he filed a petition under Section 163-A of the Act, he would certainly have been entitled to compensation for the injuries suffered by him. Now the provision under Section 164 of the Act has been introduced in place of Section 163-A of the Act and since the provision contained under Section 164 of the Act is a beneficial provision and by following law laid down in **Ram Murti's case (supra)**, claimants are entitled to compensation of Rs.2,50,000/- which even Ishwar Singh would have been entitled, had he instituted a claim petition.

18. As a result of afore-said discussion, the present appeal is partly accepted and appellants are held entitled to compensation of Rs.2,50,000/- along with interest @9% per annum w.e.f. 9.8.2019 when provision under Section 164



of the Act has come into force till realization payable by respondents No.2 to 4 jointly and severally.

19. Registry is directed to email the authenticated copy of the award to the respondent Insurance Company in terms of directions issued by the Hon’ble Supreme Court in Writ Petition (Civil) No.534 of 2020 titled *Bajaj Allianz General Insurance Company Versus Union of India and others*, decided on 16.03.2021 and Insurance Company shall comply with the directions as issued under Clause (F) of the said judgment.

20. Pending misc. application(s), if any, shall also stand disposed of.

(Yashvir Singh Rathor)
Judge

April 7, 2026
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No