

**Sr. No.212****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****FAO-3182-2024 (O&M)****Date of decision: 06th March 2026****SUSHMA AND OTHERS****.....Appellants****versus****SITA RAM AND OTHERS****.....Respondents****CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Rahul Noorie, Advocate for
Mr. Abhimanyu Singh, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.3-UIIC.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The appellants, who are the widow and children of deceased-Suresh, have filed the present appeal impugning the order of dismissal dated 18.03.2024, whereby, the claim petition filed on behalf of the appellants was dismissed by the Motor Accident Claims Tribunal, Bhiwani.

2. As per the relevant facts in brief, the deceased (pillion rider), along with the driver, was going on a motorcycle bearing Registration No.HR-16Q-8996 and he was hit by an unknown vehicle due to which he sustained injuries. The injured (since deceased) was admitted to the hospital, where he died on account of the injuries suffered by him in the accident. FIR No.595 dated 15.09.2016, was registered under Sections 279 and 304-A IPC at Police Station Sadar Bhiwani, against the driver of the unknown vehicle. The appellants/claimants filed a claim petition against the driver, owner and the Insurance Company of the motorcycle, wherein, it was specifically



pleaded that the deceased was working as an Accountant and he was earning a salary of Rs.13,000/- per month.

3. The claim petition was contested by the driver, owner and the Insurance Company. Issues were framed. The Tribunal has dismissed the petition by taking the following Issue No.4 as preliminary issue:-

“xxxxxx

4. Whether the petition in question is not maintainable and the petitioners have no locus standi to file the same and the same is liable to be dismissed for contents of the written statements, filed by the respondents? OPR

xxxxxx”

4. The Tribunal has dismissed the claim petition on a preliminary ground holding that the income of the deceased was more than Rs.40,000/- per month, as such, the claim petition is not maintainable.

5. I have considered the aforesaid submissions and perused the paper book.

6. As per the Second Schedule under Section 163-A of the Motor Vehicles Act, 1988, the maximum annual income of Rs.40,000/- has been mentioned. As per the Tribunal's view, compensation could be awarded under Section 163-A only to such victims whose income was either Rs.40,000/- per month or less than that.

7. The Tribunal has missed noticing the amendment in the Motor Vehicles Act, 1988 (*hereinafter referred to as “the Act”*), whereby Section 164 was substituted in place of Section 163-A. Section 164 reads as under:-

“164. Payment of compensation in case of death or grievous hurt, etc.- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force



of law, the owner of the motor vehicle or the authorised 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 a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.

(2) In any claim for compensation under sub-section (1), 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.

(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section.”

8. As per the provisions of Section 164 of the Act, the owner or the insurer are liable to pay a sum of Rs.5,00,000/- in case of death due to any accident arising out of the use of motor vehicle and the claimant is not required to plead or establish that the death in respect of which the claim has been made was due to any wrongful act or neglect from the owner of the vehicle. There is no cap in the income of the deceased as it was there in the earlier provision under Section 163-A.

9. Now, the next question arises as to whether the amended provisions of Section 164 of the Act are applicable to the facts of the present case as the accident in the present case took place on 14.09.2016.

10. The Hon’ble Apex Court, in “The New India Assurance Company Limited vs. Urmila Halder”, SLP (Civil) No.6260 of 2019, decided on 08.02.2024, has considered this question *as to whether the*



amendment in Section 163-A of the Motor Vehicles Act, 1988, which came into effect by a Gazette Notification on 22th May 2018, would relate to an accident which had occurred prior to the said date. The Hon'ble Apex Court upheld the view taken by the High Court that it is merely a procedural amendment, which has to be given retrospective effect and it is nothing substantive so as to affect the merits of the issue. It was also observed that a beneficial legislation would necessarily entail the benefit to be passed on to the claimant in the absence of any specific bar to the same.

11. In view of the ratio of the decision by the Hon'ble Apex Court in *The New India Assurance Company Limited (supra)*, the appellants, who are the family members of the deceased-victim, can be considered to be compensated by invoking the provisions of Section 164 of the amended Act. Consequently, the findings of the Tribunal non-suited the claimants merely on technical grounds, are liable to be set aside.

12. Since the Tribunal has not given any findings on all the issues, as such, it is in the fitness of the things that the matter should be remanded back to the Tribunal to decide the matter afresh by recording findings on all the issues on the basis of the evidence, which has already been led by both the parties.

13. Consequently, the present appeal is **allowed**. The impugned Award dated 18.03.2024 is set aside and the matter is remanded back to the Tribunal for passing a fresh award after affording opportunity of hearing to all the parties. The parties are directed to appear before the Tribunal on **07.04.2026 at 10:00 AM**.



14. In case any of the party intends to lead further evidence, the same shall be considered by the Tribunal, keeping in view the facts and circumstances of the matter.
15. Pending miscellaneous applications, if any, stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

06th March 2026
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>