IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-3759-2012(O&M)
Date of decision: 16.04.2026

Bakshish Singh & Others

...Appellant(s)

Vs.

Harjit Kaur & Another

...Respondent(s)

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CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Kirandeep Kaur, Advocate
Mr. Amandeep Singh Manaise, Advocate
for the appellants.

Mr. Lokesh Garg, Advocate for
Mr. Kushagra Mahajan, Advocate
for respondent No.1.

Mr. Sandeep Suri, Advocate
for respondent No.2.

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NIDHI GUPTA, J.

CM-1611-CII-2016

This is an application filed by the appellant under Section 151 CPC for converting the Claim petition filed under Section 163-A of the Motor Vehicles Act (hereinafter referred to as "the Act") to that under Section 166 of the Act and to decide the claim of the appellants accordingly.

It is inter alia submitted by learned counsel for the applicants/appellants that claim petitions filed under Section 166 of the Act by the other claimants arising out of the same accident dated 01.09.2009, have been allowed and huge amount of compensation has been awarded to the claimants therein. It is submitted that the factum of negligence in the accident has been proved on record in the other matters. Therefore, the present petition of the present appellants arising out of the same accident also deserves to be treated and decided under Section 166 of the Act. Therefore, it would meet the ends of justice if the petition filed by the applicants under Section 163-A is converted into petition under Section 166.

Learned counsel for the respondents vehemently opposes the submissions advanced on behalf of the applicants/appellants and submits that the appellants cannot seek to take benefit of the other connected cases as each case has independent cause of action. It is submitted that even as per the law, conversion of Claim Petition filed under Section 163-A of the Act to a petition under Section 166 of the Act is not permitted. It is accordingly prayed that the present application be dismissed.

Heard.

I find merit in the submissions advanced on behalf of the respondents.

In a Claim Petition filed under Section 163-A of the Act, the compensation has to be paid as per the structured formula stipulated in the Second Schedule to the Act. In a Claim Petition under Section 163-A of the Act, the claimants are only required to prove the involvement of the offending vehicle in the accident in question. Accordingly, all the evidence is led by the parties to only prove the involvement of the vehicle. Whereas, in a claim petition filed under section 166, evidence is to be led by the claimant to prove the rash and negligent driving of the offending vehicle by the respondent. In the present case, admittedly claimants have not led any evidence to show that the offending vehicle was being driven in a rash and negligent manner. Reliance of the applicants upon the connected matters is misplaced as, as correctly pointed out by learned counsel for the respondents, each case has independent cause of action and facts of each case are different. Moreover, the Hon'ble Supreme Court in three-Judge Bench judgment of **Deepal Girishbhai Soni v. United India Insurance Co. Ltd., (SC) : Law Finder Doc ID # 70466,** has categorically held that:-

> *"Motor Vehicles Act, 1988, Sections 163A and 166 - Alternate remedy - Switching over to Section 166 after exercising one under section 163A - Not permissible - Remedy under the no fault liability prescribed under Section 163A is an independent and complete in itself - It is not an interim relief or temporary remedy subject to any other relief under the Act and cannot be clubbed or adjusted in the remedy to claim under section 166 - It is only the relief under section 144 which is interim in nature and is adjustable at the time of final decision of regular petition - The object and purpose of incorporating Section 163A was to provide a speedy remedy to the victims or their dependents but has been made final and absolute in itself.*
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> *XXX XXX XXX*
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> *35. Section 163A was introduced in the Act by way of a social security scheme. It is a code by itself. It appears from the Objects and Reasons of the Motor Vehicles (Amendment) Act, 1994 that*

after enactment of the 1988 Act several representations and suggestions were made from the State Governments, transport operators and members of public in relation to certain provisions thereof. Taking note of the observations made by the various Courts and the difficulties experienced in implementing the various provisions of the Motor Vehicles Act, the Government of India appointed a Review Committee. The Review Committee in its report made the following recommendations:

"The 1988 Act provides for enhanced compensation for hit and run cases as well as for no fault liability cases. It also provides for payment of compensation on proof-of-fault basis to the extent of actual liability incurred which ultimately means an unlimited liability in accident cases. It is found that the determination of compensation takes a long time. According to information available, in Delhi alone there are 11214 claims pending before the Motor Vehicle Accidents Tribunals, as on 31.3.1990. Proposals have been made from time to time that the finalisation of compensation claims would be greatly facilitated to the advantage of the claimant, the vehicle owner as well as the Insurance Company if a system of structured compensation can be introduced. Under such a system of structured compensation that is payable for different clauses of cases depending upon the age of the deceased, the monthly income at the time of death, the earning potential in the case of the minor, loss of income on account of loss of limb etc., can be notified. The affected party can then have the option of either accepting the lump sum compensation as is notified in that scheme of structured compensation or of pursuing his claim through the normal channels.

The General Insurance Company with whom the matter was taken up, is agreeable in principle to a scheme of structured compensation for settlement of claims on "fault liability" in respect of third party liability under Chapter XI of M.V. Act, 1988. They have suggested that the claimants should first file their Claims with Motor Accident Claims Tribunals and then the insurers may be allowed six months time to confirm their prima facie liability subject to the defences available under Motor Vehicles Act, 1988. After such confirmations of prima facie liability by the insurers the claimants should be required to exercise their option for conciliation under structured compensation formula within a stipulated time."

The recommendations of the Review Committee and representations from public were placed before the Transport Development Council for seeking their views pursuant whereto several sections were amended. Section 163A was inserted in the Act to provide for payment of compensation in motor accident cases in accordance with the Second Schedule providing for the structured formula which may be amended by the Central Government from time to time.

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41. Section 163A which has an overriding effect provides for special provisions as to payment of compensation on structured formula basis. Sub-section (1) of Section 163A contains non-obstante clause in terms whereof the owner of the motor vehicle or the authorised insurer is liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Sub-section (2) of Section 163A is in pari materia with sub-section (3) of Section 140 of the Act.”

Findings on issue No.1 have been returned by the learned Tribunal in relation to requirements of Section 163-A of the Act i.e. only with regard to the use of the offending vehicle. No evidence has been led by the claimants to prove rash and negligent driving of the offending vehicle as required under Section 166 of the Act.

In view of the above, present application stands **dismissed.**

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.4,65,228/- awarded by the Motor Accident Claims Tribunal, Amritsar (hereinafter ‘the learned Tribunal’) vide Award dated 15.10.2011 passed in MAC Case No.85 dated 05.02.2010 filed under Section 163-A of Motor Vehicles Act (hereinafter “the Act”). The 3 claimants are the 53-year-old father, 50-year-old mother and 31-year-old brother of deceased Surjit Singh, who was 26 years old at time of accident.

2. Brief facts of the case are that the ld. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the deceased Surjit Singh had *“died in motor accident, caused on account of use of Tata Safari Car model 2009 white colour bearing chasis no.MA14030819NP06833 by the driver of the said vehicle on 1.9.2009 in the area near Muradpura turning P.S Sadar, Amritsar.”* The said

compensation has been awarded along with interest @ 6% per annum. Respondents were held jointly and severally liable for payment of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that the deceased was a businessman and was earning Rs.3200/- per month and the claimants were dependent upon him. The appellants led sufficient evidence in support of the case, but learned Tribunal did not give due appreciation to the same while allowing the Claim Petition vide impugned Award dated 15.10.2011 and awarded a compensation of only Rs.4,65,228/- in total and respondents have been directed to pay the same with interest @ 6% per annum.

4. It is further submitted that the impugned Award dated 15.10.2011 is totally illegal, unjust, not based upon valid reasoning and deserves to be modified inter alia on the grounds that Award amount of Rs.4,65,228/- is on the lower side and deserves to be enhanced. The loss of estate has been assessed merely Rs.2000/-, which also deserves to be enhanced to Rs.5000/- as per law laid down by the Hon'ble Apex Court in Sarla Verma's Case. Funeral expenses have been assessed merely Rs.2500/- which also deserves to be enhanced as the claimants have specifically stated in their statements that they spent Rs.15,000/- on his last rites. Besides this, the learned Tribunal has awarded interest 6% per annum only on the awarded amount, which is also on the lower side and deserves to be

enhanced to the prevailing rate of interest which is 9% per annum and the interest deserves to be awarded from the date of accident.

5. It is further averred in Para 6 of the present Grounds of Appeal as follows: -

> *"6. That the findings of Ld. MACT are based upon conjecture and surmises and not sustainable in the eyes of law, hence deserve to be set aside by this Hon'ble Court."*

6. It is accordingly prayed that the present appeal be allowed and the impugned Award be modified.

7. Per contra, learned counsel for the respondents opposes the submissions advanced on behalf of the appellants and submits that the impugned Award suffers from no error; and present appeal be dismissed.

8. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellants.

9. In respect of the quantum of compensation, learned Tribunal has calculated compensation in the following manner:-

> *"11. In view of my findings on above issues above, the petitioners/claimants being legal heirs of deceased Surjit Singh, are definitely entitled to recover compensation from Harjit Kaur owner of TATA Safari and National Insurance Company, insurer of the said vehicle and the petition is very much maintainable in the eyes of law. Now, the point to be determined is the quantum.*

As per the case of the petitioners/claimants, deceased was 26years at the time of accident. In the post mortem report of deceased, his age is mentioned as 26-1/2years and I take it as such. According to the claimants, he was earning Rs. 3200/- per month and in that way, his annual income comes out to be Rs.38400/-. As per second schedule in terms of Section 163(A), the amount of compensation so arrived at in the case of fatal accident claims shall be reduced by 1/3d in consideration of the expenses, which the victim would have incurred towards maintaining himself had he been alive. Thus, deducting 1/3rd of the amount from there, total dependency comes to Rs.25596/-. As per schedule, in case the deceased was aged about 26-1/2years, the multiplier of 18 is to be applied. So, applying the said multiplier, the total compensation comes out to RS. 4,60,728/-The claimants are entitled to loss of estate to the tune of Rs.2000/-and funeral expenses to the tune of Rs.2500/-.So, in total, the claimants are entitled compensation to the tune Rs.465,228/-. Both the respondents jointly and severally are liable to pay compensation amount."

10. I find no error whatsoever in the compensation as calculated above by the learned Tribunal. The Claim Petition had been filed under Section 163-A of the Act and amended Second Schedule of the Act had come into effect from 22.05.2018. Section 163 of the Act stood replaced by Section 164 vide Amendment with effect from 01.09.2019, as per which Second Schedule of the Act had been omitted. Reliance may be placed upon a Division Bench judgment of the Calcutta High Court in **Urmila Halder v. New India Assurance Co. Ltd., (Calcutta)(DB) : Law Finder Doc Id # 1250725;**

judgment of this Court in **"National Insurance Company Limited through Assistant Manager Vs. Kamlesh Kumari & Others" FAO-705-2003 decided on 05.03.2020;** and judgment of Gauhati High Court in **"National Insurance Company Limited v. Bijaya Bhuyan & Others" reported in (2018) 5 GLT 72.** It is established position in law that in a Claim Petition filed under Section 163-A/amended Section 164 of the Act, claimants are only entitled to a maximum of Rs.5,00,000/- towards compensation.

11. Reference may be made to judgment of this Court in **Tata AIG General Insurance Co. Ltd. v. Jasbir Singh, (Punjab and Haryana) : Law Finder Doc ID # 2224117;** wherein it is held that:-

> *"Compensation under Section 163-A of Motor Vehicles Act, 1988 should strictly adhere to the structured formula stipulated under Schedule-II of the Act, including deductions for personal expenses, prescribed limits for funeral expenses, loss of estate, and consortium.*
> *A. Motor Vehicles Act, 1988 Section 163-A Compensation payable under structured formula - Tribunal must follow Schedule-II of the Act - Deduction for personal expenses must be applied - Prescribed limits for heads like funeral expenses, loss of estate, and consortium must not be exceeded - Maximum compensation in case of death cannot exceed Rs.5,00,000/-."*

12. Reliance may be placed upon judgment of this Court in **Farrukh v. Sale Khan, (Punjab and Haryana) : Law Finder Doc ID # 2224013,** wherein while placing reliance upon judgment of the Hon'ble Supreme Court in **Kurvan Ansari alias Kurvan Ali v. Shyam Kishore Murmu (SC) : Law Finder Doc ID # 1911276,** it has been held that:-

"3. Learned counsel for the appellants seeks enhancement of the compensation amount on the ground that the learned Tribunal has merely awarded a lumpsum payment of Rs.1,20,000/-. It is submitted that even no multiplier has been applied and nothing has been granted under any of the conventional heads. Learned counsel relies upon judgment of Hon'ble Supreme Court in Civil Appeal No.6902 of 2021 titled as "Kurvan Ansari @ Kurvan Ali & Another v. Shyam Kishore Murmu & Another".

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10. It is undisputed that in a petition under Section 163-A of the Act, the Scheme/structured formula as contained in Schedule-II of the Act, has to be followed, whereunder inter-alia, compensation in a death case cannot exceed Rs. 5 lacs……."

13. Learned counsel for the appellants is unable to dispute or controvert the aforesaid factual and legal position.

14. In view of the above, present appeal stands **dismissed**.

15. Pending application(s) if any also stand(s) disposed of.

16.04.2026 **(Nidhi Gupta)**
Sunena **Judge**

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