



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-91-2017 (O&M) &
XOBJC-42-2025
Reserved on:- 31.10.2025
Pronounced on:- 20.01.2026
Uploaded on:- 21.01.2026

Bala Devi

.....Appellant

vs.

Nand Lal @ Mangat Ram and others

.....Respondents

Whether only the operative part of the judgment is pronounced? NO
Whether full judgment is pronounced? YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Ms. Mamta Saini, Advocate,
for the appellant.

Mr. Anil Kumar Spehia, Advocate,
for respondent No.2/Cross-Objector.

Mr. Himanshu Munjal, Advocate,
for respondent No.3.

Mr. Diwan S. Adlakha, Advocate,
for respondent No.4.

Mr. R.C.Kapoor, Advocate,
for respondent No.5-Insurance Company.

SUDEEPTI SHARMA J.

1. Vide this common judgment, this Court, shall dispose of the appeal filed by the appellant/claimant as well as cross-objections filed by the cross-objector/respondent No.2.
2. The present appeal has been preferred against the Award dated 16.08.2016 passed by the learned Motor Accident Claims Tribunal, Yamuna



Nagar at Jagadhri (for short, 'the Tribunal') in the claim petition under Section 163-A of the Motor Vehicles Act, 1988, for enhancement of compensation, granted to the appellant/claimant to the tune of Rs.4,92,000/- along with interest @ 8% per annum on account of death of deceased-Tony @ Kuldeep in a motor vehicular accident, occurred on 15.08.2009.

3. The present cross-objections have been preferred by respondent No.2-Gurdev Singh, owner of motorcycle bearing registration No.PB-70-B-7257 on the ground that 50% liability to pay compensation has wrongly been fastened upon respondent No.2/cross-objector by the learned Tribunal.

FACTS NOT IN DISPUTE

4. The brief facts of the case are that on 15.08.2009, Toni @ Kuldeep (since deceased) was travelling as a pillion rider on a motorcycle bearing registration No. PB-70-B-7257 (Temporary No. PB-65-T-7171), which was being driven by Nand Lal @ Mangat Ram (respondent No.1), while going towards his native village Tehi Jattan. One Ravi Kumar was also seated on the same motorcycle as a third occupant behind Toni @ Kuldeep. It has been pleaded that respondent No.1 was driving the motorcycle at a normal speed and on the correct left side of the road. At about 7:15 PM, when they reached near the T-point of village Manka, a motorcycle bearing registration No. HR-02-Q-7618, being driven by respondent No.4 Ram Pal, came from the link road leading from village Manka at a very high speed, without blowing the horn and without following the traffic norms, and struck against their motorcycle. As a result of the impact, the occupants of both motorcycles fell on the road and sustained injuries. Toni @ Kuldeep suffered



multiple grievous injuries on various parts of his body, including a fracture of the backbone (spine). Immediately after the accident, he was taken to Kohli Hospital, Jagadhri, from where he was referred to PGI, Chandigarh. However, instead of being taken to PGI, Chandigarh, he was admitted to Gaba Hospital, Yamuna Nagar. Subsequently, on 21.08.2009, he was referred to Government Medical College and Hospital, Sector-32, Chandigarh, where he underwent surgery and remained hospitalized up to 28.09.2009. Thereafter, he continued to receive medical treatment as an OPD patient, but his condition failed to improve and he remained bedridden. The Medical Board at Government Medical College and Hospital, Sector-32, Chandigarh, assessed his disability as 100% permanent disability. Ultimately, Toni @ Kuldeep succumbed to the injuries sustained in the accident and died on 02.05.2013. In this regard, FIR No.105 dated 17.08.2009, under Sections 279 and 337 of the Indian Penal Code, 1860, was registered.

5. Upon notice of the claim petition, respondent No.1, i.e. driver of motorcycle bearing registration No.PB-70-B-7257, did not appear despite service of summon and was proceeded against *ex parte*, vide order dated 11.02.2014. During the proceedings of the case before learned Tribunal, respondent No.2/cross objector i.e. owner of motorcycle bearing registration No.PB-70-B-7257, was also proceeded against *ex parte*, vide order dated 07.05.2016.

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



“1. Whether the accident in question causing death of Tony @ Kuldeep son of Baljeet Singh @Baljeet Ram, took place by use of motor vehicles i.e. motor cycles bearing temporary no. PB-65-T-7171 (permanent registration no. PB-70-B-7257) and HR-02-Q-7618? OPP.

2. If issue no. 1 is proved, what amount of compensation the claimants are entitled to and from whom? OPP

3. Whether present petition is not maintainable? OPR.

4. Whether there is violation of terms and conditions of the insurance policy and respondent no. 6 - insurance company is not liable to pay any compensation? OPR- 6.

5. Relief.”

7. After taking into consideration the pleadings and the evidence on record, the learned Tribunal allowed the claim petition and held respondent No.2/cross objector i.e. owner of motorcycle bearing registration No.PB-70-B-7257, liable to pay compensation in the ratio of 50% and further held respondent No.5-Insurance Company to pay the compensation in the ratio of 50%. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

8. Learned counsel for the appellant/claimant contends:-

- (i) that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. That Section 163-A of Motor Vehicles Act, 1988 is now substituted by Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019



w.e.f 01.04.2022) and compensation should be enhanced as per the substituted statutory provision i.e. Section 164 of the Act.

- ii) that the present case is covered by the judgment rendered by this Court in **FAO No.4301 of 2006**, titled as “**Akaljit Kaur and Others Vs. Parveen Kumar and Others.**” wherein the claim under Section 163-A of the Motor Vehicles Act, 1988 was converted to Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) by relying upon the judgment of Hon’ble *Supreme Court in the case of Ram Murti and others Vs. Punjab State Electricity Board [2022(4) TAC 738]* wherein it was held that Section 164 of the Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) provides for payment of compensation in case of death in the amount of Rs.5 lakhs and in the case of grievous hurt of Rs.2.5 lakhs.
- iii) that learned Tribunal has erred in directing respondent No.2/cross objector i.e. owner of the motorcycle bearing registration No.PB-70-B-7257 to pay compensation to the tune of 50% of the total amount of compensation. However, the sole liability to pay compensation ought to be of respondent No.5-Insurance Company.

Therefore, he prays that the present appeal be allowed.



9. *Per contra*, the learned counsel for the respondent No.2/cross-objectors contends that the learned Tribunal has wrongly held respondent No.2/cross objector to pay the compensation to the tune of 50% of the total compensation awarded as there is no iota of evidence before the learned Tribunal that the driver of motorcycle bearing registration No.PB-70-B-7257 was negligent in driving the said vehicle. Therefore, he prays that the present cross-objections be allowed and respondent No.5-Insurance Company be held solely liable to pay compensation.

10. Learned counsel for respondent-Insurance Company, however, vehemently argues on the lines of the award and contends that the amount of compensation as assessed by the learned Tribunal has rightly been granted. Therefore, he prays for dismissal of the appeal..

11. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

XOBJC-42-2025

12. This Court deems it appropriate to first deal with the cross-objections (XOBJC-42-2025) filed in the present appeal.

13. A perusal of the record shows that respondent No.2/cross objector i.e. owner of motorcycle bearing registration No.PB-70-B-7257 was proceeded against *ex parte* vide order dated 07.05.2016 and he never challenged order dated 07.05.2016, whereby he was proceeded against *ex parte*, nor did he challenge the award dated 16.08.2016, which was decided against him as *ex parte*.

In view of the same, the present cross-objections are **dismissed**.



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14. A perusal of the award shows that in the present case the appellant/claimant and proforma respondent No.6 filed the claim petition seeking compensation on account of the death of Tony @ Kuldeep, who was aged about 24 years at the time of accident. Since Section 163-A of Motor Vehicles Act, 1988 is now substituted by Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022), compensation is liable to be enhanced as per the substituted statutory provision i.e. Section 164 of the Motor Vehicles Act, 1988, therefore, the appellant/claimant herein are entitled to be granted the benefit of beneficial provision enacted by the Parliament under Chapter 11 of which Section 164 provides for payment of compensation in case of death in the amount of Rs.5 lakhs and in case of grievous hurt of Rs.2.5 lakhs.

15. Further, this Court in **FAO No.4301 of 2006**, titled as “**Akaljit Kaur and Others Vs. Parveen Kumar and Others**” held as under:-

“11. Hon’ble Supreme Court in the case of **Ram Murti and others Vs. Punjab State Electricity Board [2022(4) TAC 738]** held that the appellants therein to be granted the benefit of beneficial provision enacted by the Parliament under Chapter 11 of which Section 164 provides for payment of compensation in the case of death in the amount of Rs.5 lakhs and in the case grievous hurt of Rs.2.5 lakhs.

12. This Court in **FAO-195-2006** titled as **Mamta and Others Vs. Happy and Others**, decided on 29.05.2024, held that since Motor Vehicle statute is a beneficial legislation, the Judge should not go into the technicalities of the provisions, under which the application or petition is moved but should apply his judicial mind, as these are only the irregularities and not illegalities which cannot be cured. 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. Further, 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.”

16. In view of the above, the present appeal is allowed. Accordingly, the award dated 16.08.2016 is modified by converting the claim petition under Section 163-A (pre 2018 amendment) to Section 164 (post 2018 amendment) of the Motor Vehicles Act, 1988. As such, the appellant/claimant are held entitled to compensation to the tune of **Rs.8,000/-** (Rs.5,00,000 – Rs.4,92,000).

17. Adverting now to the contention raised by learned counsel for the appellant–claimant that the learned Tribunal committed an error in directing respondent No. 2, the owner of the motorcycle bearing registration No. PB-65-T-7171, to discharge liability to the extent of 50% of the total compensation amount, and that the entire liability ought to have been fastened upon respondent No. 5–Insurance Company, this Court finds no substance in the said submission.

18. It is an admitted position on record that the claim petition was instituted under Section 163-A of the Motor Vehicles Act, 1988. In proceedings under the said provision, the claimant is only required to establish the involvement of the vehicle(s) in question and that the accident occurred out of the use of such vehicle(s); proof of negligence is neither required nor relevant. The learned Tribunal has rightly recorded a categorical



finding that the accident occurred due to the use and involvement of both the motorcycles concerned.

19. Once the involvement of both vehicles stood duly established, the learned Tribunal was justified in apportioning the liability equally between the two vehicles involved in the accident. The determination of liability in the ratio of 50:50 is thus based on sound appreciation of evidence and correct application of law. Merely because one of the vehicles was insured, the entire liability could not have been fastened upon the insurer of that vehicle, particularly when the other vehicle was also admittedly involved in the occurrence.

20. This Court finds no illegality, perversity, or material infirmity in the findings returned by the learned Tribunal which may warrant interference in appellate jurisdiction. Consequently, the apportionment of liability as determined by the learned Tribunal is upheld and affirmed.

CONCLUSION

21. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the present appeal is **allowed** and the cross-objections are **dismissed**.

22. So far as the interest part is concerned, as held by Hon'ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R. Valli and Others VS. Tamil Nadu State Transport Corporation** (2022) 5 Supreme Court Cases 107, the cross-objectors/claimants are granted the interest @ 9% per annum on the



enhanced amount from the date of filing of claim petition till the date of its realization.

23. The respondent No.5-Insurance Company as well as respondent No.2/cross objector are directed to deposit the enhanced amount of compensation along with interest in the ratio of 50:50 with the Tribunal within a period of two months from the receipt of copy of this judgment. The Tribunal is directed to disburse the enhanced amount of compensation along with interest in the account of the appellant/claimant, as per ratio settled by the learned Tribunal, vide its award dated 16.08.2016. The appellant/claimant is directed to furnish her bank account details to the Tribunal.

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

20.01.2026

Virender

**(SUDEEPTI SHARMA)
JUDGE**

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No