



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-5694-2005 (O&M)

Date of Decision: 14.05.2025

Daya Kauri and ors.

.....Appellants

Vs.

Gursewak Singh and ors.

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present:- Ms. Aakanksha, Advocate
for the appellants.

Mr. G.B.S. Gill, Advocate
for respondent Nos. 1 and 2.

Mr. D.P. Gupta, Advocate
for respondent/Insurance Company

None for respondent No. 4

SUDEEPTI SHARMA J.

C.M. No. 6333-CII-2022

The present application has been filed by the applicant-respondent Nos. 1 and 2 under Order 41 Rule 27 CPC read with Section 151 of CPC for leading additional evidence.

I have heard learned counsel for the applicant-respondent Nos. 1 & 2.

The present appeal pertains to the year 2005 and the claim petition was decided in the year 2005 itself. Respondent Nos. 1 and 2 had every opportunity to produce the evidence before the learned Tribunal which they want to place on record by way of filing the present application before this Court. Since, the additional evidence which the applicants wants to place on record at



this stage with the application, could be placed before the learned Tribunal at the time when the claim petition was pending adjudication and no reasoning for not producing the additional evidence before the learned Tribunal is given in the present application, therefore, this Court finds no merit in the present application and the same is dismissed.

FAO No 5694-2005

1. The present appeal has been preferred against the award dated 05.04.2005 passed in the claim petition bearing No. MACP No. 13/2003 filed under Section 163-A of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Sirsa (for short, 'the Tribunal') for enhancement of compensation granted to the claimants/appellants on account of death of Mani Ram, who died in a motor vehicular accident, occurred on 24.02.2003, whereby the claimants/appellants were granted compensation to the tune of Rs.89,500/-.
2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case are not reproduced for the sake of brevity.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. Learned counsel for the claimants-appellants has made the following submissions:-
 - i) That the amount assessed by the learned Tribunal is on the lower side.
 - ii) 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.



iii) 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 lakh and in the case of grievous hurt of Rs.2.5 lakh.

4. Per contra, learned counsel for the respondent-Insurance Company, however, vehemently argues that the award has rightly been passed and the amount of compensation as assessed by the learned Tribunal has rightly been granted. He, thus prays for dismissal of the appeal.

5. Learned counsel for respondent Nos. 1 and 2 contends that the present appeal is liable to be dismissed to the extent of granting recovery rights to the Insurance Company. He contends that the recovery rights have wrongly been granted to the Insurance Company by the learned Tribunal on the ground that the respondent No. 1-driver of the offending vehicle was not holding valid driving licence. He submits that inadvertently respondent No. 1 could not produce the driving licence at the time of adjudication of the claim petition. Therefore, he prays that respondent Nos. 1 and 2 be exempted from paying compensation to the claimants and the Insurance Company be directed to pay the



compensation to the claimants, in view of driving licence verification certificate dated 06.06.2018.

6. I have heard the learned counsel for the parties and perused the whole records of this case.

7. A perusal of the award indicates that in the present case, the claimants-appellants filed the claim petition seeking compensation on account of death of Mani Ram who was aged about 65 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 provisions i.e. Section 164 of the Act, therefore, the appellants herein are entitled to be granted the benefit of beneficial provisions 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 lakh and in case of grievous hurt to the extent of Rs.2.5 lakh.

8. Since this Court deems it inappropriate to admit additional evidence of respondent No. 1 at this stage, the argument advanced by learned counsel for respondent Nos. 1 and 2 with respect to the fact that respondent No. 1 was having valid driving licence at the time of the accident, based on the driving licence verification certificate dated 06.06.2018, is untenable in the eyes of the law.

9. 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."*

10. In view of the above, the present appeal is allowed. Accordingly, the award dated 05.04.2005 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 claimants/appellants are held entitled to enhanced compensation to the tune of **Rs.4,10,500/-** (5,00,000-89,500).

11. 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 Nandu State Transport Corporation**



(2022) 5 Supreme Court Cases 107, the appellants-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.

12. The Insurance Company is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the date of copy of this judgment. The appellants-claimants are directed to furnish their bank accounts details to the Insurance Company/Tribunal.

13. However, respondent No.3-Insurance Company is entitled to recover the enhanced amount of compensation from respondent Nos. 1 and 2 i.e. driver and owner of the offending vehicle as per award dated 05.04.2005.

14. Further Insurance Company is directed to disburse the current scheduled fee to Mr. D.P. Gupta, Advocate, within a period of twenty days from the date of receipt of copy of this judgment, in view of the order dated 18.07.2024 passed in FAO No.1682 of 2007 by this Court.

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

(SUDEEPTI SHARMA)
JUDGE

May 14, 2025
Gaurav Arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes