



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(218)

FAO-6646-2012

Date of decision:- 03.09.2025

Raavi Devi

...Appellant

Versus

Gurmel Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Ashwani Arora, Advocate, and
Mr. Vipul Sharma, Advocate
for the appellant.

Mr. Lalit Garg, Advocate
for respondent No.-Insurance Company.

VIKAS BAHL, J. (ORAL)

1. Widow of the deceased-Abdul Mazid has filed the present appeal challenging the award dated 14.09.2012, vide which the claim petition filed by the present appellant had been dismissed only on account of the fact that the appellant/claimant could not prove the negligence on the part of respondent No.1.

2. The fact that the motorcycle bearing registration No.PB65-C-0434 was involved in the accident fact, that respondent No.1 was the driver of the said motorcycle, respondent No.2 was the owner of the said

motorcycle and that it was insured with respondent No.3 has not been disputed before this Court. It is jointly submitted that the only issue which arises for consideration before this Court is the amount of compensation to which the present appellant is entitled to.

3. Learned counsel for the appellant has submitted that even in case the finding of the Motor Accident Claims Tribunal, Chandigarh to the extent that the present appellant had not been able to prove that the driver of the offending vehicle was rash and negligent is upheld, then also, as per the provisions of Section 164 of the Motor Vehicles Act, 1988, the claimant is entitled to an amount of Rs.5,00,000/-. It is submitted that the Hon'ble Supreme Court in the case of "Ram Murti and others Vs. Punjab State Electricity Board", reported as 2023 ACJ 631, in similar facts and circumstances, was pleased to grant compensation of an amount of Rs.5,00,000/- in a case where the negligence of the driver of the offending vehicle was not proved. In the said case also, although the accident had taken place on 23.05.1991 and the award in the said case was passed on 12.04.1994, yet the Hon'ble Supreme Court had given the benefit of the beneficial provisions of Section 164 of the Motor Vehicles Act, 1988, which provision had been incorporated by the Act 32 of 2019. It is further submitted that in view of the same, the said amount be paid along with interest to the claimant from the date of the application till the date of the actual payment. It is also submitted that the present case be treated as a case under Section 164 of the Motor Vehicles Act, 1988 as amended and that the amount be released along with 9% interest from the date of filing of the claim petition till the date of actual payment.

4. Learned counsel for the respondent No.3-Insurance Company has argued that in the present case, the accident had taken place on 16.01.2004 and even as per the provision of Section 140 of the Motor Vehicles Act, 1988 which was in force at that time, only an amount of Rs.50,000/- was payable on account of no fault liability and thus, at best, the claimant could claim Rs.50,000/- on account of no fault liability. It is submitted that the present appellant is claiming the benefit of the amended provision by relying upon the judgment of the Hon'ble Supreme Court in **Ram Murti (supra)** and is also claiming a very high rate of interest which would give double benefit to the appellant. It is submitted that in case, the benefit of the judgment of Hon'ble Supreme Court is to be given to the appellant, the rate of interest should not be more than 6% per annum.

5. This Court has heard the learned counsel for the parties and has perused the paper book.

6. Section 140 of the Motor Vehicles Act, 1988 initially provided that compensation to the extent of Rs.25,000/- would be payable in the case of death of a person and in such a situation, the claimant was not required to plead and establish that the death or permanent disablement in respect of which the claim had been made was due to any wrongful act, negligence or default of the owner of the offending vehicle or vehicles concerned or any other person. The said Section 140 of the Motor Vehicles Act, 1988 was amended in the year 1994 and the amount payable in the case of death was enhanced to Rs.50,000/-. Thus, on the date, the accident had taken place i.e., 16.01.2004, the above said amended Section was in force. The relevant

portion of amended Section 140 of the Motor Vehicles Act, 1988 is reproduced as under: -

“140. Liability to pay compensation in certain cases on the principle of no fault. –

(1) Where death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicles shall, or, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section.

(2) The amount of compensation which shall be payable under sub-section (1) in respect of the death of any person shall be a fixed sum of [fifty thousand rupees] and the amount of compensation payable under that sub-section in respect of the permanent disablement of any person shall be a fixed sum of [twenty – five thousand rupees].

(3) In any claim for compensation under sub-section (1), the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicle or vehicles concerned or of any other person.”

7. By virtue of Act 32 of 2019, the above-said provisions of Section 140 of the Motor Vehicles Act, 1988 were deleted and simultaneously Chapter XI was substituted and Section 164 of the said Chapter provided that a compensation of Rs.5,00,000/- in the case of death was to be provided and in such situation also, the claimant was not required to plead or establish that the death or grievous hurt in respect of which the claim had been made was due to any wrongful act or neglect or default of

the owner of the vehicle or any other person. The said Section 164 of the Motor Vehicles Act, 1988 is reproduced herein below: -

“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. The Hon'ble Supreme Court in the case of ***Ram Murti (supra)*** had granted the benefit of the beneficial provisions which have been enacted by the Parliament and accordingly, granted the compensation of Rs.5,00,000/- to the claimants therein. In the said case also, the accident as well as the award were much prior to the coming in force of Section 164 of the Motor Vehicles Act, 1988 and the Hon'ble Supreme Court in view of the fact that it was a beneficial provision, applied the provisions of Section 164

of the Motor Vehicles Act, 1988. The relevant part of the said judgment is reproduced as under: -

“xxx xxx xxx

2 *The appeal has arisen from a judgment of a Single Judge of the High Court of Punjab & Haryana dated 10 March 2009 in FAO No 1461 of 1994.*

3 *The High Court was considering an appeal arising from an award of the Motor Accident Claims Tribunal, Bhatinda **dated 12 April 1994**. The Tribunal dismissed the application filed by the appellants under Section 166 of the Motor Vehicles Act 1988. However, the claim under Section 140 was allowed and the appellants were held entitled to receive an amount of Rs 25,000 on account of the death of Ved Parkash.*

4 *The High Court has affirmed the judgment of the Tribunal in regard to the dismissal of the claim under Section 166 of the Motor Vehicles Act 1988. However, having due regard to the amendment of the provisions of Section 140 in 1994, the amount payable has been enhanced from Rs 25,000 to Rs 50,000.*

5 *We have heard Mr Narender Singh Yadav, counsel appearing on behalf of the appellants and Ms Uttara Babbar, counsel for the respondent.*

6 ***There is no cogent basis for this Court to entertain the challenge against the findings of fact which have been recorded concurrently by the Tribunal and by the High Court while dismissing the claim under Section 166 of the Motor Vehicles Act 1988.***

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 lakhs and in the case of*

grievous hurt of Rs 2.5 lakhs.

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 lakhs 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 lakhs if no amount has been paid) shall be paid over to the appellants by 30 November 2022.

9 The appeal is accordingly disposed of.

10 Pending applications, if any, stand disposed of.”

9. Even the judgment of the High Court, passed in FAO No.1461 of 1994 decided on 10.03.2009, from which judgment the SLP was filed before the Hon'ble Supreme Court and the above-said judgment was rendered by the Hon'ble Supreme Court, has been referred to by the learned counsel for the appellant to highlight the fact that in the above-said case the accident had taken place on 23.05.1991, which was even prior to the amendment in Section 140 of the Motor Vehicles Act, 1988 and thus, the present case is squarely covered by the judgment of the Hon'ble Supreme Court.

10. Thus, keeping in view the above-said facts and circumstances, this Court is of the view that in the interest of justice, the present claim petition be treated as a claim petition under Section 164 of the Motor Vehicles Act, 1988 and by applying the ratio of law laid down by the Hon'ble Supreme Court in the above-said judgment, the present appeal is partly allowed and the award of the Motor Accident Claims Tribunal, Chandigarh dated 14.09.2012 is set aside.

11. With respect to the rate of interest, since the benefit of beneficial legislation has been given to the appellant, thus, it would be reasonable to grant a low rate of interest i.e. 6% per annum in the present case and accordingly, respondent No.3 is directed to pay an amount of Rs.5,00,000/- to the present appellant along with interest @ 6% per annum from the date of filing of the claim petition till the date of actual payment, within a period of two months from today.

September 03, 2025

naresh.k

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes

Whether reportable:-

Yes