



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-5116-2017 (O&M)
Date of decision: 19.08.2025

Suresh and another

...Appellant(s)

Vs.

Satish and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Anshul Khurana, Advocate
for the appellants.

NIDHI GUPTA, J.

CM-15815-CII-2017

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 22 days in filing the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is supported by an affidavit of the applicant/appellant No.1, the same is allowed and delay of 22 days in filing the accompanying appeal is condoned.

FAO-5116-2017 (O&M)

The appellants are the LRs/son and daughter respectively of the original claimant Sohna Ram, who had filed the MACT case No. 126 dated 24.07.2015 under Sections 166 and 140 of the Motor Vehicles Act,



(hereinafter referred to as “the Act”) before the learned MACT, Karnal (hereinafter referred to as “the Tribunal”) seeking compensation on account of death of his son Isham Singh allegedly due to rash and negligent driving of Eicher Canter bearing registration No.HR-69A-3302 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. During the pendency of the claim petition, Sohna Ram had expired; whereupon the present appellants were impleaded as LR’s. Vide impugned Award dated 12.01.2017, claim petition of the appellants has been dismissed by the learned Tribunal. Hence, the present appeal by the appellants.

2. It is *inter alia* submitted by learned counsel for the appellants that learned Tribunal was in patent error in dismissing the claim petition as it had allowed the application of the appellants impleading them as LR’s of the original claimant Sohna Ram. It is submitted that the present appellants did not introduce themselves as claimants but were impleaded as LR’s of the claimant Sohna Ram now deceased. Therefore, it was incumbent upon the learned Tribunal to record additional observation as to whether the surviving son and daughter of the original claimant are entitled to succeed over inheritance rights available to Sohna Ram at the time of accident in question. However, no such observation has been made by the learned Tribunal in the impugned Award concerning the rights accrued to Sohna Ram, father of the deceased on the date of accident. It is argued that since issue No.1 has been decided in affirmative,



rights of Sohna Ram were to be decided and not the right of the appellants.

3. It is further submitted that for the purpose of quantum of compensation the averment taken in claim petition regarding income of the deceased is un rebutted, and same is corroborated by PW1, PW2 & PW3. Therefore, income was required to be assessed as more than Rs.15,000 per month as a skilled worker by further calculating the future increase along with another benefit.

4. It is therefore, prayed that the present appeal may be allowed and Award dated 12.01.2017 passed by Ld. Tribunal, be modified by awarding the compensation to the appellants, as claimed in the claim petition or in accordance with law, in the interest of justice.

5. No other argument is raised on behalf of the appellants.

6. I have heard ld. counsel and perused the case file in detail.

7. In the first instance, it may be pointed out that present appeal is of the year 2017. However, notice is yet to be issued in the main appeal as the matter has been adjourned repeatedly at request of learned counsel for the appellants.

8. Be that as it may, I find no merit in the submissions made on behalf of the appellants. The claim petition was filed by the original claimant Sohna Ram seeking compensation on account of death of his son Isham Singh in the accident dated 25.06.2015 caused by the rash and negligent driving of the offending vehicle by respondent No.1. Age of the deceased at the time of accident was 42 years. It was pleaded in the claim



petition that occupation of the deceased was installments of tubewells and handpumps of water from where he was earning Rs.15,000/- p.m. Learned Tribunal on the basis of pleadings and evidence adduced before it had concluded that the deceased-Isham Singh had died due to the injuries suffered by him in the accident dated 25.06.2015 due to rash and negligent driving of offending vehicle by respondent No.1. It is to be noted that respondent No.1 did not step into witness box to rebut the evidence of the claimants. Appellant No.1 Suresh PW1 was stated to be eyewitness of the accident and author of the FIR Ex.P8. In his evidence, PW1 had reiterated the averments made in the claim petition to the effect that accident had taken place when the deceased alongwith PW1 were standing at Kaithal Road, Karnal and waiting for a bus when offending vehicle being driven by respondent No.1 in a rash and negligent manner and at a high speed, had come from the side of over bridge and had hit the deceased resulting into serious injuries caused to the deceased to which he had succumbed subsequently.

9. As regards the quantum of compensation, learned Tribunal had found that as per postmortem report Ex.P7, deceased was 42 years old at the time of death. It was the pleaded case of the claimant that deceased was doing work of installment of tubewell and handpumps water from where he was earning Rs.15,000/- p.m. However, no evidence to this effect was produced by the appellants.

10. As regards dependency, during pendency of the claim petition, original claimant Sohna Ram/father of the deceased, had



expired. The appellants had been impleaded as LR's of Sohna Ram. Appellant No.1 is the brother and appellant No.2 is the married sister of the deceased. It is not denied by learned counsel for the appellants that as per copy of ration card Ex.P1, claimant Sohna Ram was residing with the deceased Isham Singh whereas, the appellant No.1/Suresh was residing separately from both Sohna Ram and Isham Singh. The appellant No.2/Mala Devi is married daughter of Sohna Ram, and she was also residing separately in her matrimonial home. Accordingly, Id. Tribunal had relied upon judgment of the Hon'ble Supreme Court in ***Gian Chand and others vs. Gurlabh Singh and others 2016 (2) PLR 831 (SC)*** and a judgment of this Court in ***Dharmender and another vs. Mustak Ahmed and others 2015(3) PLR 31 (P&H)***, to hold that the appellants being brother and sister of the deceased, cannot be said to be dependant upon the deceased and had accordingly given the following findings:-

".....I have considered the rival contentions of both the sides. In view of the ratio of law laid down in the aforementioned cases, it is not disputed that the object of this Act is to secure payment of compensation to the dependent legal representatives at the earliest and in conformity with the settled principles of law. The relief contemplated by the statute is intended mainly to benefit a class of persons i.e. dependent legal representatives. However, every legal representative may not be the 'dependent' of the deceased. Herein the present case, it is not disputed that claimant Bala Devi is married and residing separately, whereas as per the ration card Ex.P1 claimant Suresh Kumar was also residing separately and both of them



might be enjoying their own income. Thus, they do not fall in the category of 'dependent' as per Section 8, Schedule 1 of Hindu Successions Act, 1956. Therefore, the instant petition on behalf of claimants Suresh Kumar and Bala Devi being LRs of deceased Sohna Ram, is not maintainable and they have no locus standi and cause of action to file the present petition.

16. *In view of the above discussion, issue No.2, 4 & 5 are decided against the claimants.”*

11. I find no error whatsoever in the above reasoning of the learned Tribunal. Learned counsel for the appellants has admitted during arguments that the appellants were not financially dependant upon the deceased. Learned counsel for the appellants also sought to place reliance on more recent judgment of Hon'ble Supreme Court in ***National Insurance Company Limited v. Birender (SC)*** : ***Law Finder Doc ID # 1665184***, to contend that even major married and earning sons (in the present case, siblings) of deceased being legal representatives have right to compensation. However, the appellants can derive no benefit from the said judgment as it has been clearly stated therein that the Legal Representatives of the deceased only have a “...right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependent on the deceased and not to limit the claim towards conventional heads only...”. Accordingly, as per the said pronouncement, the Legal Representatives/appellants only have a “right to apply” for compensation and it is for the learned Tribunal to consider



whether the said Legal Representatives were “fully dependent” on the deceased. In the present case, nothing has been shown to this Court to prove that the claimants No.1 and 2 were “fully dependent” on the deceased as per law. Nothing has been shown to this Court to prove the financial dependence of the said claimants upon the deceased. It has been contended by the appellants that original claimant was dependent upon the deceased. However, there is no evidence to this effect. Even assuming that Sohna Ram was dependent upon the deceased, no right to claim compensation through Sohna Ram would accrue to the appellants as admittedly, they were maintaining separate households, independent of both Sohna Ram, and the deceased.

12. In view of the above, the present appeal is hereby **dismissed**.

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

19.08.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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