



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

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FAO-5149-2006 (O&M)

Date of Decision: January 10, 2025

Mohinder Pal and others

.....Appellants

Vs.

Yadvinder Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. R.S. Mamli, Advocate for the appellants.

Mr. R.P. Daaria, Advocate for respondent No.1.

Mr. Shubham Gupta, Advocate and
Mr. D.P. Gupta, Advocate for respondent No.2.

SUDEEPTI SHARMA J. (ORAL)

The present appeal has been preferred against the award dated 05.04.2006 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 passed by the learned Motor Accident Claims Tribunal, Jagadhri (for short, 'the Tribunal') vide which the claim petition filed by the appellants/claimants for grant of compensation, was dismissed.

FACTS NOT IN DISPUTE

2. The brief facts of the case as mentioned in the claim petition are that on 20.7.2004, Mam Chand was on the way back to his house at village Harwa Kalan on bicycle after doing his work as usual. Hardeep Singh and Jit Singh were also coming with him on their separate bicycles. When, he reached near the culvert in the area of village Harwa Kalan, a car bearing temporary No. 61-VHQ-0350-TA, Regn. No. HR-02-L-9595) being driven rashly and



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negligently by Yadevinder Singh came from the opposite side and hit him. He fell down and sustained multiple injuries on his person. Hardeep Singh and Jit Singh took him to the hospital but he succumbed to his injuries on the way. One Ravinder Kumar made the complaint to the police and on its basis, case FIR. No. 92 dated 20.7.2004 under Sections 279, 337, 304-A IPC was registered at Police Station Bilaspur.

3. Upon notice of the claim petition, respondents appeared and filed written reply denying the factum of accident/compensation.

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

1. Whether the death of Mam Chand occurred in a road side accident by the use of vehicle No. HR-02L-9595? OPP

2. If issue No. 1 is proved in affirmative then to what amount of compensation the petitioners are entitled to and from whom? OPP

3. Whether the claimants are legal heirs of Mam Chand deceased? OPP

4. Relief.

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim-petition. Hence the claimants/appellants filed the present appeal for grant of compensation.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

6. The learned counsel for the claimants-appellants contend that the claim petition was dismissed only on the ground that Maruti car was not involved in the accident. He further contends that Section 163-A of Motor Vehicles Act, 1988 is now substituted by Section 164 of Motor Vehicles Act,



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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. Further, that the present case is covered by the judgment rendered by this Court in **FAO No.4301 of 2006, titled as "Akajit 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.

Therefore, he prays that the present appeal be allowed and compensation be granted to the appellants/claimants as per settled law.

7. *Per contra*, Ld. Counsel for the respondents argues on the lines of the award and contends that the award has rightly been dismissed by the Ld. Tribunal. Therefore, they pray for dismissal of the appeal.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. Relevant portion of the award passed by the Ld. Tribunal is reproduced as under:-

“ISSUE No. 1:

10. This is a petition under Section 163-A of the Motor Vehicles Act. It is to be established that some vehicular accident took place, victim sustained the injuries and died because of it and not as to with whose rash and negligence it took place? From the material on record, it is proved that an accident took place, Mam Chand



sustained injuries on his person in it and breathed his last on the way to the Hospital but is not established that it took place with the vehicle in question. It appears to be a case of hit and run. Ravinder Kumar is the lodger of the FIR Ex. P1. His presence at the spot is admitted even by the witnesses of the petitioners. But he was not examined by them rather he was produced by respondent No. 1 Yadevinder Singh, driver and owner of the car in question. Ravinder Kumar appearing as RW1 stated that on 20.7.2004, he was on the way to Sadhaura from Bilaspur driving jeep No. HR01A-9938. A Maruti Car was going ahead to his jeep. In the meanwhile, a truck was located coming from the opposite side. A cyclist was seen moving ahead to the truck. The said truck first hit the cyclist and then collided with the Maruti car and it fell in the ditches alongwith the road side. The cyclist also fell in the ditches but at some distance from the car. No accident took place between the car and the cyclist. He stopped his jeep, took the cyclist as well as the occupant of the car in Civil Hospital, Bilaspur in it. He passed on the information about this accident in P.S. Bilaspur and a police party accompanied him to the Hospital. Police recorded his statement and on its basis report Ex. P1 was recorded.

11. Yadvinder Singh, owner and driver of the car in question appearing as RW2 also stated the same thing. Their version also co-insides with the report Ex. P1 got recorded immediately after the accident. There is nothing to arrive at the conclusion that they have made false statement in the court.

12. Faced with the situation, Shri R.K. Radauri learned counsel for the petitioners vehemently argued that Ravinder Kumar, driver of the jeep distorted the facts, made false and wrong statement to the police to help. Yadevinder Singh, car driver, Mam Chand, cyclist was never hit by any truck. Factually the car in question, being driven rashly and negligently by Yadevinder Singh collided with him and he fell in the ditches alongwith the roadside,



sustained the injuries and breathed his last on the way of Hospital. To prove it, he referred to the statements of Hardeep Chand PW2 and Ranjit Singh PW3. They both raised in one voice that the car in question hit Mam Chand cyclist. The driver of the car was under the influence of liquor and was telling his name as Binder. A jeep per chance came there and its driver took the victim to Civil Hospital, Bilaspur and got him admitted. They both went to inform the family members of the victim. Stressing upon it, he contended that from their statements, it stands firmly proved that the car in question was involved in this accident and not any truck. Ravinder Kumar, RW1, has concocted this false story to help Yadevinder Singh, owner and driver of the car in question. To further fortify his above version, he referred to Union of India Versus Dhanraji Devi and others, 1989 ACJ (Allahabad and Rosy Joshi and others Vs. Joginder Singh and others, 2005 ACJ 1299 (P&H).

13. It was next argued by him that the police investigated this case and filed the report stating therein that some unknown truck hit the cyclist and it could not be located despite best efforts. This report of the police is also bogus and false. It has been made on the instance of the owner and driver of the car to help him. Sanjeev Kumar, complainant, filed a complaint in the court about this accident and also produced the evidence to prove that the accident took place with the car in question. The learned Illaqa Magistrate sent the case to the P.S. Bilaspur, under Section 302 Cr. P.C. and it made the same report that some unknown truck hit the cyclist. Learned Illaqa Magistrate discarded the evidence of the complainant, accepted this report of the police and dismissed the complaint. But it is Immaterial. It has no bearing in this-case/Because these are enquiry proceedings The tribunal has to reach at its own conclusion after holding the enquiry on the basis of the evidence produced before it and has not to rely upon the findings report of the police. The findings arrived at by the police cannot be taken into consideration. To press his above



contention, he sought the help of New India Assurance Company Ltd. Vs. K. Vijaya Laxmi and others, 2004 Acc (1) 602 (A.P). It was further argued by him that from the statements of Hardeep Chand PW2 and Ranjit Singh PW3, who witnessed this accident, it is firmly proved that Mam Chand, cyclist was hit by the car in question and not by any truck.

14. I have not been able to convince with the arguments of the learned counsel for the petitioners based on the case law (Supra). The presence of both the witnesses by the name of Hardeep Singh and Ranjit Singh at the time of accident appears doubtful and suspicious. Few facts itself make it clear. Hardeep Chand PW2 stated that he went to inform the family members of Mam Chand. Sanjeev Kumar son of the deceased as PW1 also stated the same thing. They both never stated that Ranjit Singh was also with them. Ranjit Singh PW3 appeared with altogether with different version. He stated that he and Hardeep Chand went in the village and informed the family members of Mam Chand. Had they both went to inform the family members of Mam Chand then this thing must have been stated by Sanjeev Kumar PW1 and Hardeep Chand PW2. This fact itself make it clear that they both were not present at the spot and never witnessed this accident.

15. Almost it is proved from the material on record that Ravinder Kumar RW1 came at the spot in a jeep immediately after the accident, took care of Mam Chand cyclist and Yadvinder Singh, driver of the car and took them in CHC, Bilaspur in his jeep and got them admitted. He informed the police of P.S. Bilaspur, made the statement to it and on its basis report Ex. P1 was recorded. He never stated that any of the above said witnesses were present there and anyone of them went to inform the family members of the deceased. Surprisingly. his statement on this aspect remained unchallenged. Not even a suggestion was put to him in this regard. Had any one of the above said two witnesses i.e. Hardeep Singh and Ranjit Singh been present at the spot then I am sure that he



must have accompanied Ravinder Kumar RW1 to take the injured in the Hospital. Ravinder Kumar RW1 must have also disclosed it. Apart all this, Ravinder Kumar RW1 is an independent and impartial witness. He is unknown to Yadvinder driver of the car in question. Nothing has been brought on the record as to why has he distorted the facts and made false report to the police? No motive has been attributed towards him for deposing falsely in his favour and as such no reasons appear to believe his evidence. His version also co-incides with the report Ex. P1 made to the police immediately after the accident. He is a truthful witness and narrated the real and true version of the occurrence. No reasons are forthcoming to discard his evidence.

14. I do agree with the contention of the learned counsel for the claimants that the proceedings under the Motor Vehicles Act are summary proceedings, the tribunal has to reach as its conclusion independently and on the basis of the evidence produced before it and has not to take into consideration the report/findings of the police. But at the same time, it cannot be straightly discarded. Ravinder Kumar, driver of the jeep came there immediately after the accident, witnessed it, took the injured to the Hospital, got them admitted and also made the report to the police about this accident. He categorically stated while appearing as RW1 that some truck hit Mam Chand cyclist (deceased) and then the car in question and it flee away. His presence at the spot is not disputed rather is admitted. He witnessed this occurrence and is the best person to unfold it. His evidence is contrary to the version so put forth by the claimants. Even the presence of Hardeep Singh PW2 and Ranjit Singh PW3 at the spot is not established. In these circumstances when the evidence of the claimant is so conflicting and contrary to the version of Ravinder Kumar, RW1, the report of the police assumes significance and deserves to be taken into consideration. It cannot be discarded. Moreover, I am not solely relying point. I am making the observations on the basis of



evidence on record. Absolutely, there is nothing on the record to hold that the car in question hit the cyclist and it was involved in this accident. Accordingly, this issue is answered against the petitioners.”

10. A perusal of the statement provided by PW2-Hardeep Chand (eye-witness), as well as his cross-examination, unequivocally establishes that the accident in question occurred due to the rash and negligent driving of the Maruti car, as corroborated by the statements of the witnesses. The driver's identity as "Binder" and his intoxicated state at the time of the accident further substantiate the claimant's case. The learned tribunal's finding that the accident was caused by a truck, rather than the Maruti car in question, appears to be based on conjecture and overlooks the uncontroverted testimony of an eye witness. The witness has categorically denied the presence of any truck at the time of the accident and has consistently maintained that the accident occurred due to the negligent driving of the Maruti car. The reliability of the witness remains unimpeached, as his testimony is coherent, consistent, and unshaken under cross-examination.

11. A perusal of the testimony of PW3-Ranjit Singh and his cross-examination unequivocally establishes that the accident in question involved the Maruti car. The testimony is consistent and corroborates the fact that the collision occurred solely due to the rash and negligent driving of the car's driver. PW3-Ranjit Singh categorically denies the involvement of any truck in the accident and firmly states that both he and Hardeep witnessed the incident first hand. The Learned Tribunal's conclusion, attributing the accident to a truck, is unfounded and contrary to the evidence on record. The testimony of PW3-Ranjit Singh leaves no scope for ambiguity, as there is no mention of a

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truck's involvement in either the examination-in-chief or cross-examination. Accordingly, the finding of the Tribunal warrants reconsideration, as it misinterprets the evidence and overlooks the direct and credible testimony of an eye witness.

12. Upon an examination of the statement and cross-examination of RW-1-Ravinder Kumar, the credibility of his testimony stands significantly undermined as the depositions of PW1-Sanjeev Kumar and PW2-Hardeep Chand (eye-witness) categorically affirm that no truck was present at the site of the accident. This directly contradicts the narrative put forth by RW1-Ravinder Kumar, who alleges that the truck first struck the cyclist and subsequently collided with the Maruti car. Such a contradiction between RW-1's (Ravinder Kumar) testimony and the consistent accounts of PW1-Sanjeev Kumar and PW2-Hardeep Chand (eye-witness) raises serious doubts about the veracity of his version of events. RW1-Ravinder Kumar fails to provide any specific or identifiable details regarding the alleged truck, such as its registration number, colour, or distinctive features. In cases involving motor vehicle accidents, such details are crucial to substantiate claims of involvement by any vehicle. The lack of such information renders his narrative vague, speculative, and devoid of probative value.

13. The sequence of events as described by RW1-Ravinder Kumar appears inherently improbable and lacks coherence. He claims to have been driving approximately 20 yards behind the Maruti car and witnessed the truck strike both the cyclist and the car. However, his failure to recall essential details such as the car's registration number, the driver's name, or specific observations about the truck diminishes the reliability of his account.



14. The inconsistency in RW-1's (Ravinder Kumar) testimony, coupled with the absence of corroborative evidence, gives rise to a reasonable inference that his deposition may have been influenced by extraneous considerations or made to align with the interests of certain parties. His narrative appears tailored to exonerate the car's occupants by falsely attributing the accident to the involvement of a truck, for which no evidence exists. RW-1's (Ravinder Kumar) testimony lacks the necessary consistency, coherence, and corroboration to inspire confidence. The contradictions between his statement and the depositions of PW1-Sanjeev Kumar and PW2-Hardeep Chand (eye-witness), the absence of critical details about the alleged truck, and the apparent fabrication in his narrative compel this court to regard his deposition as unreliable.

15. Upon a careful analysis of the deposition of RW2-Yadvinder Singh and his cross-examination, it becomes evident that his account lacks credibility and appears to be a fabricated narrative. RW-2's (Yadvinder Singh) version of the events is inconsistent and unsupported by any credible evidence, whereas the statements of PW2-Hardeep Chand (eye-witness) and PW3-Ranjit Singh, who are independent witnesses, unequivocally establish that the accident occurred due to the vehicle driven by RW2-Yadvinder Singh. The testimonies of PW2-Hardeep Chand (eye-witness) and PW3-Ranjit Singh remain unshaken during cross-examination, and their accounts inspire confidence, being cogent, consistent, and devoid of any contradictions. RW-2's (Yadvinder Singh) claim that the accident was caused by a truck, which subsequently hit his car and caused injuries to him, is unsupported by any corroborative evidence. It further proves the factum of accident. He has failed to produce any medical records,

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treatment reports, or documentation regarding the alleged injuries sustained by him. Additionally, there is no evidence on record to substantiate his claim that his car was damaged and required repairs. The absence of such critical evidence casts serious doubt on the veracity of his assertions.

16. Furthermore, RW2-Yadvinder Singh admitted during cross-examination that he did not lodge any complaint or report against the alleged truck driver, nor could he provide any details about the truck, such as its registration number. This omission significantly weakens his claim and raises suspicion regarding the existence of the truck. His inability to recall or present details that would substantiate his defense further undermines the reliability of his deposition. The assertion by RW2-Yadvinder Singh that he became unconscious at the scene also fails to justify the inconsistencies in his narrative. His statement regarding the presence of other persons at the accident site, and his denial of the circumstances leading to the cyclist's death, is vague and contradictory. The suggestions posed during cross-examination that RW2-Yadvinder Singh concocted this story to escape liability and that he influenced the investigation are further supported by the lack of any credible evidence in his favour.

17. In light of the above, it is opined that the testimony of RW2-Yadvinder Singh is untrustworthy, self-serving, and lacks corroborative evidence. On the other hand, the consistent and reliable testimonies of PW2-Hardeep Chand (eye-witness) and PW3-Ranjit Singh establish beyond reasonable doubt that the accident occurred due to the rash and negligent driving of RW-2, and no truck was involved in the accident.



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18. In view of the foregoing inference, it is manifest that the tribunal has improperly dismissed the claim of the claimants by unduly relying on the testimonies of RW1-Ravinder Kumar and RW2-Yadvinder Singh, while failing to accord due consideration to the probative value and credibility of the depositions of PW1-Sanjeev Kumar, PW2-Hardeep Chand (eye-witness), and PW3-Ranjit Singh.

19. On the touchstone of hearinabove discussed findings and judicial precedent, the award dated 05.04.2006 passed by Ld. Tribunal, Jagadhri stands vitiated by a complete absence of judicial application of mind.

20. 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 ie. Section 164 of the Motor Vehicles Act, 1988, therefore, the appellants/claimants 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.

21. 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."

22. In view of the above, the present appeal is **allowed**. Accordingly, the award dated 05.04.2006 is set aside and appellants/claimants are held entitled to compensation to the tune of Rs.5 lacs.

23. 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 appellants-claimants are granted the interest @ 9% per annum on the amount of compensation from the date of filing of claim petition till the date of its realization.

24. The respondent-Insurance Company is directed to deposit the amount of compensation alongwith interest with the Tribunal within a period of two months from today. The Tribunal is further directed to disburse the amount of compensation alongwith interest equally in the accounts of the



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claimants/appellants. The claimants/appellants are directed to furnish their bank accounts details to the Tribunal.

25. The Insurance Company is hereby directed to disburse the current scheduled fee to Mr. D.P. Gupta, Advocate, within a period of 20 days from the date of receipt of the copy of this judgment.

26. Disposed off accordingly.

27. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

January 10, 2025

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Whether speaking/reasoned:	Speaking
Whether reportable	Yes