



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

**FAO-1059-2006 (O&M)**

**Date of Decision: April 28, 2025**

**Charanjit Sharma**

**.....Appellant**

**Vs.**

**Subhash and others**

**.....Respondent(s)**

**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Gopal Mittal, Advocate for the appellant.

Mr. R.C. Gupta, Advocate  
for respondent No. 3– Insurance Company.

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**SUDEEPTI SHARMA J.**

1. The present appeal has been preferred against the award dated 04.04.2005 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 whereby the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') dismissed the claim petition of the appellant.

**FACTS NOT IN DISPUTE**

2. The brief facts of the case are that on 03.08.2003, the appellant being pillion rider was returning to Karnal from Haridwar on motorcycle bearing registration No. HR-05-M-4594, being driven by Subhash. When they reached near village Kurali, a cow suddenly appeared on the road. Subhash applied the brakes in order to save the cow. In that process, the motorcycle slipped and both fell down on the road. The appellant sustained multiple injuries including compound fracture of proximal phalanx. He was shifted to City Orthopaedic Hospital and X-ray



centre, Karnal, where he remained admitted from 03.08.2003 to 16.08.2003. He was operated upon their and POP was applied on his leg.

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 accident in question took place due to rash and negligent driving of motorcycle bearing registration No. HR-05-M-4594 by its driver-respondent No. 1 and whether Charanjit Sharma-petitioner received injuries in the said accident? OPP
2. Whether the petition is not maintainable? OPP
3. Whether the petitioner m has got no locus standi to file the present petition? OPR
4. Whether the petition has been filed in collusion with respondent Nos. 1 and 2, as alleged? OPR
5. Whether the driver of the offending vehicle was not holding a valid and effective driving licence at the time of accident, if so, its effect? OPR
6. To what amount of compensation, the petitioner is entitled to claim and from whom? OPP
7. Relief.”

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

#### **SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES**

6. The learned counsel for the appellant-claimant contends that the claim petition was dismissed only on the ground that the injuries mentioned in the



disability certificate does not find mention in any of the injuries deemed to result in permanent/partial disablement. He further submits that the Tribunal has erred in law in dismissing the claim petition on the ground that the appellant does not suffer permanent injury due to the alleged accident, therefore, the provisions of Section 163-A of the Motor Vehicles Act, 1988 will not be applicable in the present case. Therefore, he prays that present appeal be allowed. He further submits 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 granted as per the substituted statutory provision i.e. Section 164 of the Motor Vehicles Act, 1988.

7. He further submitted 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.

8. Per contra, learned counsel for the respondent-Insurance Company, however, vehemently argues that the claim petition has rightly been dismissed. He, therefore, prays for dismissal of the present appeal.



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

10. Before proceeding further, it is relevant to reproduce the relevant portion of the impugned award, which reads as under:-

***“ISSUE NO 2:-***

*10. It has been argued vehemently by the learned counsel for respondents that petition under Section 163-A of the Motor Vehicle Act is not maintainable as petitioner has not suffered permanent disability.*

*11. Section 163-A of the Motor Vehicle Act reads as under "163-A. Special provisions as to payment of compensation on structured formula basis-(1) Notwithstanding anything contained this Act or in any other law for the time being in force of instrument having the force of law, the owner of the motor vehicle of the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the second schedule, to the legal heir or the victim, as the case may be.*

*Explanation-For the purpose of this subsection, permanent disability shall have the same meaning and extent as in Workmen's Compensation Act, 1923(8 of 1923).*

*12. From the bare reading of Section 163-A of the Motor Vehicles Act, it is apparent that-*



*(a) Legal representatives of a person are entitled to compensation in case of his or her death in the he said accident arising out of the use of motor vehicle.*

*(b) The injured is entitled to compensation in case of permanent disablement due to accident arising out of use of motor vehicle.*

*13. Learned counsel for the petitioner has argued vehemently that from the statement of Dr. Vinod Kumar PW3 read with disability certificate Ex.P34, it has been duly proved that the petitioner has become permanently disabled to the extent of 5% because of the injuries suffered by him in the abovesaid accident. Dr. Vinod Kumar PW3 has stated that on 22.9.2004, a board consisting of himself and Dr.Gaje Singh and Dr. (Mrs) Vinod Bala Narang examined petitioner regarding his permanent disability and the said board found him permanently disabled to the extent of 5% on account of deformation and stiffness of right little finger alongwith malunited fracture of 5th meta tarsal of right foot. In his cross-examination, he has stated that the disability qua finger is 3% and qua foot is 2%.*

*14. To my mind, arguments advanced by the learned counsel for the petitioner has no force in view of explanation of Section 163-A of the Motor Vehicles Act which reads as under:-*

*Explanation. For the purpose of this Sub section 'permanent disability' shall have the same meaning and extent as the Workmen's Compensation Act, 1923.*



*From the bare reading of this explanation, it is apparent that permanent disability shall have the same meaning and extent in the Workmen's Compensation Act, Part-II of Schedule-I attached with Workmen's Compensation Act contains list of injuries deemed to result in permanent/partial disablement. Injuries mentioned in disability certificate Ex. P34 does not find mention in any of the injuries deemed to result in permanent/partial disablement mentioned in part-II Schedule-I attached with Workmen's Compensation Act. So, from the evidence on record, it is not proved that the petitioner has become permanently disabled, in terms of injuries mentioned in Workmen's Compensation Act. So, there is no permanent disability. Therefore, the petition under Section 163-A of the Motor Vehicle Act is not maintainable.*

**ISSUES NO.3,4,5 & 6**

*15. In view of findings on issue no. 2, no findings are required on issues no. 3,4,5 & 6.”*

11. A perusal of the impugned award reveals that the learned Tribunal has erroneously dismissed the claim petition on the ground that the injuries mentioned in the disability certificate does not find mention in any of the injuries deemed to result in permanent/partial disablement. It is a settled proposition of law, as held by this Court in **FAO No. 5083-2006 titled as Ashraf vs. Rajesh Kumar and anr**, decided on 03.10.2024 wherein it has been observed as under:-

*“12. Further the Tribunal has erred in dismissing the claim petition on the ground that the appellant does not suffer any*



*permanent disability due to the alleged accident. However, this Court is not satisfied with the reasoning given by the learned Tribunal as 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 in the amended Section there is no requirement regarding permanent disability for claiming compensation under Section 164 of the Motor Vehicles Act, 1988 and the compensation should have to be enhanced as per substituted statutory provision i.e. Section 164 of the Act. Therefore, the appellant herein is 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 the case of death in the sum of Rs.5 lakh and in case of grievous hurt, to the extent of Rs.2.5 lakhs. The relevant Section 164 of the Motor Vehicles Act, 1988 is reproduced as under:-*

***“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.”*

13. In view of the above referred to judgment, the award passed by the learned Tribunal is liable to be set aside.

14. 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."*

15. In view of the above referred to judgments, the present appeal is allowed. The award dated 04.04.2005 is set-aside and the claimant/appellant is held entitled to compensation to the tune of Rs. 2.5 lakh, as per provisions of Section 164 of the Motor Vehicles Act, 1988.

16. 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 appellant is granted the interest @ 9% per annum on the awarded amount from the date of filing of claim petition till the date of its realization.



17. So far as issue No. 5 is concerned i.e “5. *Whether the driver of the offending vehicle was not holding a valid and effective driving licence at the time of accident, if so, to what effect? OPR*”, since, no finding was recorded by the learned Tribunal on Issue No. 5, therefore, this Court deems it fit to remand back the matter to the learned Tribunal to give its findings on issue No. 5 as well as liability to pay the compensation to the appellant.

18. Both the parties are directed to appear before the Tribunal on 23.05.2025 and the learned Tribunal shall decide the above issue expeditiously, preferably within a period of six months from the receipt of copy of this judgment.

19. Further Insurance Company is directed to disburse the current schedule fees to Mr. R.C. Gupta, Advocate, within a period of twenty days from the date of receipt of certified copy of this order, , pursuant to order dated 18.07.2024 passed by this Court in FAO No.1682 of 2007.

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

**(SUDEEPTI SHARMA)**  
**JUDGE**

**April 28, 2025**  
Gaurav Arora

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