



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

207

**FAO-3919-2006 (O&M)
Date of Decision: 26.03.2025**

Sri Dhar Chatterjee

.....Appellant

Vs.

Rupesh Khatri and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Vishal Aggarwal, Advocate and
Mr. Kritin Jain, Advocate,
for the appellant.

Mr. Pradeep Kumar, Advocate, for
Mr. Ram Avtar, Advocate,
for respondent No.3-Insurance Company.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 03.05.2006 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Faridabad (for short, 'the Tribunal') for enhancement of compensation, granted to the appellant/claimant to the tune of Rs.54,444/- alongwith interest at the rate of 7% per annum, on account of injuries sustained by the appellant/claimant in a Motor Vehicular Accident, occurred on 06.05.2003.

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

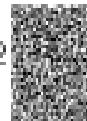
3. Learned counsel for the appellant/claimant contends that the amount awarded by the learned Tribunal is on the lower side. He further contends:-

ii) That this petition was filed under Section 163-A of the Act. The Ld. Tribunal has wrongly held the appellant negligent to the extent of 50%, whereas this case has been filed under Section 163-A of the Act where negligence is not required to be proved.

iii) That the amount assessed by the learned Tribunal is on the lower side.

iv) 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.

v) 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 lakhs and in the case of grievous hurt of Rs.2.5 lakhs.



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. Therefore, he prays for dismissal of the appeal.

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

6. A perusal of the award shows that in the present case the appellant/claimant filed the claim petition seeking compensation on account of the injury sustained by him. The Ld. Tribunal had erred in declaring the appellant/claimant as contributory negligent to the extent of 50% in the accident with the respondent, as there is no need to find out the negligence of the riders involved in the accident under Section 163-A of the Act, therefore, in the present case, no question of negligence/contributory negligence arises and the same needs to be set aside.

7. 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 i.e. 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.

8. Further, this Court in FAO No.4301 of 2006, titled as “*Akaljit Kaur and Others Vs. Parveen Kumar and Others*” held as under:-

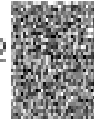


“11. Hon’ble Supreme Court in the case of **Ram Murli and others Vs. Punjab State Electricity Board** [2022(4) TAC 738] held that the appellants therein to be granted the benefit of beneficial provision enacted by the Parliament under Chapter 11 of which Section 164 provides for payment of compensation 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.”

9. In view of the above, the present appeal is **allowed**. The award dated 03.05.2006 to the extent of declaring the appellant/claimant as contributory negligent in the accident is set aside. The claim petition under Section 163-A (pre 2018 amendment) is converted to Section 164 (post 2018 amendment) of the Motor Vehicles Act, 1988. As such, the appellant/claimant is held entitled to compensation to the tune of **Rs.1,95,556/- (Rs.2,50,000 – 54,444)**.

10. 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 appellant/claimant is



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

11. The respondent-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 receipt of copy of this judgment. The Tribunal is further directed to disburse the enhanced amount of compensation alongwith interest in the account of the appellant/claimant. The appellant/claimant is directed to furnish his bank account details to the learned Tribunal.

12. The Insurance Company is hereby directed to disburse the current scheduled fee to Mr. Ram Avtar, Advocate within a period of 20 days from the date of receipt of the copy of this order, in view of the order dated 18.07.2024 passed in FAO No.1682 of 2007, by this Court.

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

(SUDEEPTI SHARMA)
JUDGE

26.03.2025
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Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No