

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

1)      FAO No. 1562 of 2006 (O&M)  
          Date of decision : 29.9.2006

State of Haryana & another

....Appellants

Versus

Bhajan Lal alias Bhagwan Lal & another

...Respondents

2)      FAO No. 1563 of 2006 (O&M)  
          Date of decision : 29.9.2006

State of Haryana & another

....Appellants

Versus

Balwan Singh & another

...Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH  
          HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.Rajeev Kawatra, Sr.Deputy Advocate General,  
          Haryana for the appellants.

...

MAHESH GROVER, J.(Oral)

The State of Haryana has challenged the award of the Motor Accident Claims Tribunal, Rohtak dated 28.10.2005 passed in M.A.C.T.Case Nos.57 dated 11.8.2003 and 62 dated 25.8.2003.

The Tribunal awarded a sum of Rs.25,000/- to claimant Bhajan Lal and Rs.4,54,800/- to claimant Balwan Singh on account of the injuries suffered by them in an accident which took place between the bus belonging to the appellants and a truck.

The only contention that has been raised by the learned counsel for the appellants is that the claim petitions were filed under the provisions of Section 163-A of the Motor Vehicles Act and that the Tribunal has held that the injuries sustained by the claimants were on account of the use of truck and bus and in view of this the compensation ought to have been apportioned between the two colliding vehicles.

We have heard the learned counsel for the appellants and have perused the record which reflects that the factum of accident on account of the use of the vehicles in question stands duly established. The claimants could have initiated these proceedings under the provisions of Section 163-A against either of the owners of the vehicles. Section 163-A of the Motor Vehicles Act is reproduced as under :

**“163A. Special provisions as to payment  
of compensation on structured formula basis. - (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 permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

*Explanation.* - For the purposes of this subsection, “permanent disability” shall have the same

meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement 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 vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.”

Since the negligence has not to be established as is the requirement of Section 166, an accident on account of the use of the motor vehicle has to be established. This would leave the question open for the claimant to prefer a claim petition against the vehicle which was being used when the accident occurred. The word “use” as referred to in Section 163-A cannot necessarily be interpreted to mean as the vehicle in which the injured or the deceased was traveling.

No other point was urged.

That apart, the appeals are barred by a delay of 27 days which has not been explained satisfactorily

For the foregoing reasons, there is no infirmity in the findings recorded by the Tribunal and the appeals being devoid of any merit are dismissed.

(MAHESH GROVER)  
JUDGE

29.9.2006

(UMA NATH SINGH)  
JUDGE

*dss*