



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

FAO-1774-2000 (O&M)

Date of Decision.:07.03.2026

Krishan Bhatia and Others

.....Appellants

Vs.

Virender Singh and Others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Harshit Kataria, Advocate and
Mr. Ashwani Bakshi, Advocate
for the appellants.

Ms. Jyotsna Saini, Advocate for
Mr. Ashish Yadav, Advocate for
respondent No.3- Insurance Company.

DEEPAK GUPTA, J. (ORAL)

The present appeal has been preferred by the legal representatives of the original claimant–injured Smt. Shashi Bala Bhatia challenging the award dated 20.03.1999 passed by the learned Motor Accident Claims Tribunal, Faridabad, whereby the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 was dismissed on the ground that the right to sue did not survive after the death of the claimant.

2. The brief facts, necessary for adjudication of the present appeal, are that on 21.01.1997, Smt. Shashi Bala was travelling on a scooter along with her husband, who was driving the vehicle, while she was riding as a pillion passenger. They were proceeding towards Ajrona. When they reached near Sunflag Hospital, a Maruti Van bearing registration No. DDA-3225, driven by respondent No.1 in a rash and negligent manner, allegedly came from the opposite direction and collided with the scooter. As a result

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of the accident, Smt. Shashi Bala sustained serious injuries and was admitted to Sunflag Hospital, where she remained hospitalized till 31.01.1997. Thereafter, also she continued to remain under medical treatment.

3. On account of the injuries suffered in the accident, Smt. Shashi Bala filed a claim petition under Section 166 of the Motor Vehicles Act on 07.04.1997 seeking compensation. Unfortunately, during the pendency of the said petition, she expired on 10.09.1998. An application was moved for bringing on record her legal representatives, which was allowed by the Tribunal.

4. However, respondent No.3 – the Insurance Company thereafter moved an application contending that since the claim petition had been filed for personal injuries, the right to sue did not survive upon the death of the claimant and the petition stood abated. Accepting the said contention, the learned Tribunal dismissed the claim petition vide the impugned award dated 20.03.1999, holding that the claim for personal injuries did not survive after the death of the injured claimant.

5.1 Assailing the above order of the Tribunal, Learned counsel appearing for the appellants, who are the legal representatives of deceased Smt. Shashi Bala, contends that the Tribunal erred in dismissing the petition solely on the ground of the death of the claimant. It is argued that the appellants had specifically pleaded that the death of Smt. Shashi Bala occurred on account of the injuries sustained in the accident and they ought to have been afforded an opportunity to lead evidence in support of the said plea. It is further contended that even assuming that the appellants ultimately fail to establish a direct nexus between the accidental injuries and the death of the claimant, the claim petition could still survive to the extent of loss to the estate, which would include medical expenses, loss of income and other pecuniary losses suffered by the estate of the



deceased.

5.2 Learned counsel submits that at the most, the claim under the head of pain and suffering, being purely personal in nature, may abate upon the death of the claimant. In support of the said submission, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***The Oriental Insurance Company Limited vs. Kahlon @ Jasmail Singh Kahlon (deceased) through his legal representative Narinder Kahlon Gosakan and another (2022) 13 SCC 494***, as well as the Division Bench judgment of this Court in ***Joti Ram and others vs. Chaman Lal and others, AIR 1985 Punjab and Haryana 2***.

6. Learned counsel appearing for the respondent–Insurance Company fairly submits that the legal proposition laid down in the aforesaid judgments cannot be disputed.

7. I have heard learned counsel for the parties and perused the record.

8. The principal question that arises for consideration is whether a claim petition filed by an injured person under Section 166 of the Motor Vehicles Act abates upon the death of the claimant during pendency of the proceedings.

9. The issue is no longer res integra. In ***Kahlon @ Jasmail Singh Kahlon's case (supra)***, the Hon'ble Supreme Court examined this question in detail and held that although the claim for compensation relating to personal injuries may not survive if the death of the claimant is unrelated to the accident, the claim to the extent of loss caused to the estate of the deceased would survive to the legal representatives. The Court emphasized that the Motor Vehicles Act is a beneficial and welfare legislation, and therefore, the provisions relating to compensation must receive a liberal and purposive interpretation so as to advance the object of the statute.

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10. The Hon'ble Supreme Court observed that expenses incurred towards treatment, medical charges, transportation, attendant charges and other pecuniary losses suffered by the injured person constitute loss to the estate, and the legal representatives of the deceased claimant are entitled to pursue the claim to that extent. It was further held that the defence based on the common law maxim "*actio personalis moritur cum persona*", embodied in Section 306 of the Indian Succession Act, cannot be applied in a rigid manner so as to defeat legitimate claims arising under the Motor Vehicles Act, particularly where the estate of the deceased claimant has suffered pecuniary loss on account of the injuries sustained in the accident.

11. The Hon'ble Supreme Court also noticed the judgments of various High Courts, including the Division Bench judgment of this Court in ***Joti Ram vs. Chaman Lal (supra)***, wherein it was held that although the claim for damages relating purely to personal pain and suffering may not survive after the death of the injured claimant, the claim relating to loss to the estate, such as medical expenses and other pecuniary losses, would survive to the legal representatives.

12. Thus, the settled legal position that emerges is that where an injured claimant dies during the pendency of proceedings, two situations may arise. Firstly, if the legal representatives are able to establish that the death of the injured occurred as a consequence of the injuries sustained in the accident, the claim petition can be pursued as one for compensation arising out of the death of the victim. Secondly, even if the death is ultimately found to be unrelated to the accident, the legal representatives would nevertheless be entitled to continue the claim to the extent of loss to the estate, which would include medical expenses, loss of income during the period of treatment and other pecuniary losses suffered by the estate of the deceased.

13. Viewed in the light of the aforesaid legal position, the



approach adopted by the learned Tribunal cannot be sustained. The Tribunal dismissed the claim petition solely on the ground that the injured claimant had died during the pendency of the proceedings and that the right to sue did not survive. In doing so, the Tribunal failed to consider that the legal representatives of the deceased claimant were entitled, at the very least, to pursue the claim under the head of loss to the estate, and also to establish, if so advised, that the death of the claimant was attributable to the injuries sustained in the accident.

14. Furthermore, the appellants were not afforded adequate opportunity to lead evidence in support of their plea that the death of Smt. Shashi Bala occurred due to the accidental injuries. Such an opportunity ought to have been granted, particularly when the Motor Vehicles Act is a social welfare legislation intended to provide just and fair compensation to victims of road accidents and their families.

15. In these circumstances, the impugned award dated 20.03.1999 passed by the Motor Accident Claims Tribunal, Faridabad, cannot be sustained in law and is liable to be set aside.

16. Consequently, the impugned award dated 20.03.1999 is hereby set aside. The matter is remanded to the Motor Accident Claims Tribunal, Faridabad, with a direction to restore the claim petition to its original number and afford adequate opportunity to the appellants—legal representatives of the deceased claimant to lead evidence in support of their claim. The Tribunal shall examine whether the death of Smt. Shashi Bala was attributable to the injuries sustained in the accident and determine the entitlement of the appellants to compensation accordingly. In the alternative, the Tribunal shall also assess the compensation payable under the heads falling within the ambit of loss to the estate, in accordance with law.

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17. Since the matter pertains to an accident, which occurred in the year 1997, it is desirable that the proceedings are concluded expeditiously. Accordingly, the learned Motor Accident Claims Tribunal shall endeavour to decide the claim petition preferably within a period of six months from the date of receipt of a certified copy of this order.

18. A copy of this order be transmitted to the District and Sessions Judge, Faridabad, who shall ensure that the matter is taken up and disposed of within the aforesaid time frame.

19. The parties, through their counsel, are directed to appear before the Motor Accident Claims Tribunal, Faridabad on 16.03.2026.

20. The appeal stands disposed of in the above terms.

21. All pending miscellaneous application(s), if any, shall also stand disposed of.

(DEEPAK GUPTA)
JUDGE

March 07, 2026

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No