IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE HIRDESH

ON THE 23rd OF FEBRUARY, 2026

MISC. APPEAL No. 2085 of 2018

DEVENDRA SINGH AND OTHERS

Versus

CHANDRABHAN SINGH YADAV AND OTHERS

Appearance:

Ms. Aakanksha Dhakad - Advocate for the owner and driver/appellants.

None for the claimants/respondents despite notice.

ORDER

Heard on IA No.3305/2018, an application moved on behalf of appellants u/S 5 of the Limitation Act for condonation of delay.

2. On due consideration and for the reasons mentioned in the application, the same is allowed.

3. Delay in filing the instant appeal is hereby condoned.

4. This appeal under Section 173(1) of the Motor Vehicles Act, 1988 has been preferred by the owner and driver/appellants challenging the award dated 18.01.2018 passed by the Motor Accident Claims Tribunal, District Shivpuri in Claim Case No. 69/2017 on the ground of exoneration from liability.

5. Brief facts of the case are that on 08.08.2016 at about 9:30 a.m., Deepak Yadav was travelling on a motorcycle along with his friend Sonu to

fill petrol. When they reached near Sakshi Marriage Garden, an Eicher tractor bearing registration No. MP-08/H-1391, allegedly driven rashly and negligently without indicator lights and with sudden application of brakes, was involved in the accident, wherein the motorcycle collided with the tractor from behind. As a result, Deepak Yadav and the rider sustained serious injuries. Both were taken to the Primary Health Centre and thereafter referred to Gwalior, where Deepak Yadav succumbed to his injuries during treatment. The incident was reported to the police. An FIR was registered and, after investigation, a charge-sheet was filed.

6. After considering the oral and documentary evidence on record, the Claims Tribunal recorded a categorical finding in Paragraph 14 of the impugned award that the accident occurred due to 50% negligence of the deceased and 50% negligence of the tractor driver and awarded certain compensation in favour of the claimants.

7. Being aggrieved, the appellants have preferred the present appeal contending that the the impugned award passed by the learned Claims Tribunal is illegal, arbitrary and contrary to the oral as well as documentary evidence available on record and, therefore, deserves to be set aside. It is contended that the claimants have failed to establish the involvement of the vehicle owned by appellant No.2 in the alleged accident. There is no cogent or reliable evidence to show that the tractor in question was involved in the accident. In fact, the deceased's motorcycle slipped on its own, resulting in his death, and the tractor was falsely implicated with a view to claim compensation. The learned Claims Tribunal, without proper appreciation of

evidence, has erroneously awarded compensation in favour of the claimants. Learned counsel further submits that the compensation awarded by the Claims Tribunal is excessive and on the higher side. The claimants failed to prove that the deceased was an earning member. The learned Tribunal has wrongly assessed the income of the deceased and has applied an excessive multiplier, resulting in an inflated award. It is further submitted that the claim petition itself, having been filed under Section 163-A of the Motor Vehicles Act, was not maintainable in the facts and circumstances of the case, which aspect has been completely overlooked by the learned Claims Tribunal. Accordingly, the impugned award is liable to be set aside.

8. Heard learned counsel for the appellant and perused the entire record of the Claims Tribunal.

9. The moot question arises in this case whether the claimants are entitled to get compensation under Section 163-A of the Motor Vehicles Act when the record itself establishes that the deceased was negligent in the accident.

10. In Paragraph 14, the Claims Tribunal recorded the following finding:

> "इस प्रकार से यह कहा जायेगा कि ट्रैक्टर चालक को यह ज्ञात नहीं था कि पीछे से कोई आ रहा है, इसलिए वह गायों को भगाने लगा और उसी दौरान मृतक अपनी मोटर साइकिल सहित ट्रैक्टर से टकरा गया। यदि उसके द्वारा सावधानी बरती गयी होती तो, दुर्घटना घटित नहीं होती। इसलिए दुर्घटना के लिए मृतक स्वयं भी. उत्तरदायी है और आवेदक की साक्ष्य से यह कहा जायेगा कि यदि मृतक मोटर साइकिल को पर्याप्त सावधानी से चलाता तो, दुर्घटना नहीं होती और यदि ट्रैक्टर चालक भी पर्याप्त सावधानी बरत्ता तो, दुर्घटना को आंशिक रूप से तो टाला जा सकता था। इस कारण वह 50 प्रतिशत उत्तरदायी है। इसलिए दुर्घटना, मृतक एवं ट्रैक्टर चालक की पचास-पचास प्रतिशत असावधानी से घटित हुयी। तदानुसार वाद-विषय क्रमांक-1 "नहीं" में तथा वाद विषय क0-2 "हाँ" में निराकृत किये जाते हैं।"

11. The aforesaid finding was not challenged by the claimants; therefore, the same has attained finality. Thus, it stands established that the deceased himself was also negligent in the accident.

12. It is not in dispute that an FIR was registered against appellant No.1 and the Claims Tribunal found that appellant No.1 and the deceased were 50% negligent in the alleged accident.

13. Learned counsel for the appellants relied upon the judgment of Apex Court and submitted that in a case under Section 163-A of the MV Act once it is established that deceased himself was negligent, then he is not entitled to claim compensation on the principle of no fault liability because Section 163-A of the MV Act does not deal with no fault liability and in that case evidence is available which may established that deceased himself was negligent, then claim can be defeated. This is the view laid down by the Apex Court in the case of **National Insurance Company Ltd. Vs. Sinitha and Others reported in 2012 ACJ 1**. The releavant observations are in Paragraphs 15 and 16 as under:-

> "15. The heading of Section 163A also needs a special mention. It reads, "Special Provisions as to Payment of Compensation on Structured Formula Basis". It is abundantly clear that Section 163A, introduced a different scheme for expeditious determination of accident claims. Expeditious determination would have reference to a provision wherein litigation was hitherto before (before the insertion of Section 163A of the Act) being long drawn. The only such situation (before the insertion of Section 163A of the Act) wherein the litigation was long drawn was under Chapter XII of the Act. Since the provisions under Chapter XII are structured under the "fault" liability principle, its alternative would also inferentially be founded under the same principle. Section 163A of the Act, catered to shortening the length of litigation, by introducing a scheme regulated by a pre-structured formula to evaluate compensation. It provided for some short-cuts, as for instance, only proof of age and

income, need to be established by the claimant to determine the compensation in case of death. There is also not much discretion in the determination of other damages, the limits whereof are also provided for. All in all, one cannot lose sight of the fact, that claims made under Section 163A can result in substantial compensation. When taken together the liability may be huge. It is difficult to accept, that the legislature would fasten such a prodigious liability under the "no-fault" liability principle,31 without reference to the "fault" grounds. When compensation is high, it is legitimate that the insurance company is not fastened with liability when the offending vehicle suffered a "fault" ("wrongful act", "neglect", or "defect") under a valid Act only policy. Even the instant process of reasoning, leads to the inference, that Section 163A of the Act is founded under the "fault" liability principle.

16. At the instant juncture, it is also necessary to reiterate a conclusion already drawn above, namely, that Section 163A of the Act has an overriding effect on all other provisions of the Motor Vehicles Act, 1988. Stated in other words, none of the provisions of the Motor Vehicles Act which is in conflict with Section 163A of the Act will negate the mandate contained therein (in Section 163A of the Act). Therefore, no matter what, Section 163A of the Act shall stand on its own, without being diluted by any provision. Furthermore, in the course of our determination including the inferences and conclusions drawn by us from the judgment of this Court in Oriental Insurance Company Limited vs. Hansrajbhai V. Kodala (supra), as also, the statutory provisions dealt with by this Court in its aforesaid determination, we are of the view, that there is no basis for inferring that Section 163A of the Act is founded under the "no-fault" liability principle. Additionally, we have concluded herein above, that on the conjoint reading 32 of Sections 140 and 163A, the legislative intent is clear, namely, that a claim for compensation raised under Section 163A of the Act, need not be based on pleadings or proof at the hands of the claimants showing absence of "wrongful act", being "neglect" or "default". But that, is not sufficient to determine that the provision falls under the "fault" liability principle. To decide whether a provision is governed by the "fault" liability principle the converse has also to be established, i.e., whether a claim raised thereunder can be defeated by the concerned party (owner or insurance company) by pleading and proving "wrongful act", "neglect" or "default". From the preceding paragraphs (commencing from paragraph 12), we have no hesitation in concluding, that it is open to the owner or insurance company, as the case may be, to defeat a claim under Section 163A of the Act by pleading and establishing through cogent evidence a "fault" ground ("wrongful act" or "neglect" or "default"). It is, therefore, doubtless, that

> Section 163A of the Act is founded under the "fault" liability principle. To this effect, we accept the contention advanced at the hands of the learned counsel for the petitioner."

14. In view of the aforesaid legal position, when the deceased himself is found to be negligent and the claim is filed under Section 163-A of the Motor Vehicles Act, and the opposite party has successfully established such negligence, the claimants are not entitled to any compensation.

15. In the present case, since the Claims Tribunal has recorded a clear and unchallenged finding that the deceased was 50% contributory negligent in the accident, the legal representatives of the deceased are not entitled to compensation under Section 163-A of the Motor Vehicles Act, 1988.

16. Consequently, the appeal filed by the appellants is **allowed.**

17. The impugned award dated 18.01.2018 passed by the Motor Accident Claims Tribunal, District Shivpuri in Claim Case No. 69/2017 is hereby **set aside.**

(HIRDESH)
JUDGE

AVI