

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.13668-13669 OF 2024
(Arising out of SLP(C) Nos.28955-28956 of 2024)
[Diary No(s).19297/2020]

BALWINDER KAUR

APPELLANT

VERSUS

PUNJAB STATE THROUGH ITS SECRETARY & ANR.

RESPONDENTS

O R D E R

1. Delay condoned.

2. Leave granted.

3. The appellant is a widow and about 80 years old. Her son, Gurinderjit Singh, was a Constable in Punjab Police. He was travelling in a police vehicle while on duty. The vehicle hit a tree and as a result of the accident, Gurinderjit Singh sustained fatal injuries leading to his death. The accident occurred on the intervening night of 26.10.1992. The deceased was unmarried. In terms of the prevailing Government Policy, his younger brother was appointed on compassionate

grounds as a Constable in the police department under the *ex gratia* scheme. Some other monetary benefits were also given.

4. Thereafter, the appellant filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (in short, the "1988 Act"), but she withdrew it in January, 1996. She again filed a fresh claim petition on 09.02.2000.

5. The Motor Accidents Claims Tribunal (in short, the "Tribunal") dismissed the second petition as barred by time. The appellant approached the High Court, but her first appeal has been turned down vide the impugned order reiterating that dead and stale claims cannot be entertained at a belated stage.

6. Ordinarily, keeping in view the factor that the second son of the appellant was employed as a Constable under the *ex gratia* scheme or some terminal benefits were paid to the family, we would have declined to interfere with the impugned orders. However, what could not be unfortunately brought on record before the High Court is that the appellant lost her second son in 2006. She was left with no bread-earner and no family pension was paid to her. There is nothing to suggest that on the untimely demise of her second son, any financial aid or assistance was provided to the appellant.

7. There is an arguable case on the question of second claim petition filed by the appellant being time barred. Though we are not giving any final opinion to create a precedent for any other case, what seems to us is that sub-section (3) of Section 166 of the 1988 Act was introduced in a new avatar vide Act 32 of 2019 w.e.f. 01.09.2019, whereunder a claim petition can be filed within six months of the occurrence of the accident. Prior thereto, sub-section (3) was omitted by way of Act 54 of 1994 w.e.f. 14.11.1994. It seems that earlier thereto there was no time limit for filing claim petition, as held by this Court in Dhannalal vs. D.P. Vijayvargiya, 1996 (4) SCC 652.

8. It further appears that before 14.11.1994, there used to be a time limit for filing the claim petitions but then the High Court of Gujarat had taken the view in Mer Ramdas Bejanand Bhai vs. Harshad Bhai Mala Bhai, 1992 (1) ACC 717, that Section 5 of the Limitation Act, 1963 was applicable in the case of an application for compensation filed before a claims Tribunal. The fact that the appellant lost her young son; she was widow; she had no source of livelihood; and she belongs to a remote area of Punjab etc., are several amongst the factors which *ex facia* would constitute a sufficient cause within the meaning of Section 5 of the Limitation Act to condone the delay, if any, that would have occurred had the

appellant filed a claim petition prior to 1994. These are all arguable issues. All that we have observed is that the Courts ought to have looked into these facts and then determined whether the appellant made out a case for condonation of delay before 1994 and if she was able to explain the delay between 1992 to 1994, could her claim petition be dismissed for want of limitation when the Legislature removed the impediment of limitation for filing claim petition before the Tribunal w.e.f. 14.11.1994.

9. Having held so, the question that falls for our consideration is whether we should remit the case to the claims Tribunal to decide the issues afresh?

10. In all fairness, learned State counsel vehemently opposed the observations made above in support of the appellant's plea to condone the delay and/or entertain her claim petition on merits, we do not find any substance in those objections. Keeping in mind the age of the appellant, it seems that remitting the case to the claims Tribunal will lead to a fresh ordeal of the appellant, who is already 80 years old.

11. What should then be the legitimate recourse that may be followed by this Court?

12. We have pondered over the issue and are of the considered opinion that it is a fit case to invoke our

powers under Article 142 of the Constitution of India, with a view to do complete justice between the parties. It seems to us that the ends of justice would be adequately met by directing the State of Punjab to pay a lump-sum compensation of Rs.5 lakhs to the appellant within a period of 60 days. On doing so, the appellant shall have no claim whatsoever under the Motor Vehicles Act and/or under service jurisprudence, except that whatever has already been granted to her shall continue to operate. Ordered accordingly.

13. Our attention has been drawn to one more aspect. The High Court, while observing in paragraph 7 of the impugned order, fell in error that the appellant raised a dead claim or that she had been adequately compensated by offering a job to the second son. As noticed earlier, the second son unfortunately died in 2006 and there is no material on record to show that any specific monetary benefit was granted to the appellant. Similarly, the appellant's claim, in the peculiar facts and circumstances of this case, which is essentially meant for her sustenance would apparently give a recurring cause of action and it cannot be termed as a dead claim. Further, offering of compassionate appointment to a family member of the deceased cannot be a ground to dislodge a claim for death under the Motor Vehicles Act. We, thus, do not approve the reasons assigned by the High Court in its impugned order(s) to dislodge the

appellant's claim.

14. The appeals are allowed in the above terms.

.....J.
(SURYA KANT)

.....J.
(UJJAL BHUYAN)

New Delhi;
December 02, 2024

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL)..... Diary No(s).19297/2020

[Arising out of impugned final judgment and order dated 03-11-2017 in FAO No.1376/2003 09-10-2018 in CM No. 21702/2018 passed by the High Court of Punjab & Haryana at Chandigarh]

BALWINDER KAUR

Petitioner(s)

VERSUS

PUNJAB STATE THROUGH ITS SECRETARY & ANR.

Respondent(s)

(IA No.90074/2020-CONDONATION OF DELAY IN FILING and IA No.90075/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 02-12-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Mr. Deepak Goel, AOR
Mr. Jitendra Bharti, Adv.
Ms. Alka Goyal, Adv.
Ms. Archana Preeti Gupta, Adv.
Ms. Urvashi Sharma, Adv.
Ms. Rubi Kumari, Adv.

For Respondent(s) Mr. Karan Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.
2. Leave granted.
3. The appeals are allowed in terms of the signed order.
4. All pending applications, if any, also stand disposed of.

(ARJUN BISHT)
ASTT. REGISTRAR-cum-PS

(PREETHI T.C.)
ASSISTANT REGISTRAR

(signed order is placed on the file)