

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

**FAO-5948 of 2011 (O&M)
Date of decision: 04.02.2016**

Ali Mohammad

...Appellant

Versus

Anjum Khan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Pulkit Dagar, Advocate for
Mr. Rajesh Lamba, Advocate
for the appellant (s).

Mr. Vishal Mittal, Advocate,
for respondent No.2.

Mr. D. K. Prajapati, Advocate for
Mr. R. S. Madan, Advocate
for respondent No.3.

JITENDRA CHAUHAN, J.

The present appeal has been filed by the injured-claimant against the impugned award dated 25.03.2011, passed by the learned Motor Accident Claims Tribunal, Faridabad, (for short, 'the Tribunal').

The learned counsel for the appellant contends that the learned Tribunal has erroneously ignored the fact that the appellant remained admitted from 21.03.2009 to 26.03.2009 in Vimhans Hospital, New Delhi and thereafter on 26.03.2009 the FIR was lodged. Therefore, there is no delay on the part of the appellant in

lodging the FIR. Accordingly, the impugned judgment passed by the learned Tribunal is liable to be set aside.

On the other hand, the learned counsel for respondent No.3 states that there is a delay of one month and seven days in lodging the FIR. He further states that the treating doctor was not examined by the appellant to prove his treatment.

I have heard the learned counsel for the parties and perused the entire record on file.

In the instant case, the appellant has not been able to properly explain the delay in lodging the FIR. The appellant in his cross-examination has stated that he could not lodge the FIR as no person was available at his house, however, according to him his nephew, Nisar was with him. It is not explained as to why, PW4, Nisar could not lodge the FIR. In his cross examination PW4, Nisar, has stated that he did not know the date of alleged accident as he was busy in a marriage at Tauru. Thus, there is material contradictions in the version of the appellant and PW4 Nisar. Further, neither the treating doctor nor any Vaidh was examined by the appellant. Therefore, this Court finds no fault in the findings recorded by the learned Tribunal.

Consequently, the present appeal is hereby dismissed.

04.02.2016

**(JITENDRA CHAUHAN)
JUDGE**