

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

**FAO-1746 of 2016(O&M)
Date of decision: 23.08.2017**

Sudesh Devi & others

... Appellants

vs.

Jagdev Kumar & others

... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

* * *

Present : Mr. Sandeep Kumar Sharma, Advocate
for the applicant-appellants.

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DEEPAK SIBAL, J.(ORAL)

CM-6533-CII of 2016

Through this application filed under Section 5 of the Limitation Act, 1963, the applicant/appellants seeks condonation of the delay of 19 days in filing the appeal.

After hearing learned counsel for the appellants and going through the contents of the application, the delay of 19 days in filing the present appeal is condoned.

CM stands disposed of.

FAO-1746 of 2016

The claimants are in appeal against the dismissal of their claim petition filed by them before the Motor Accident Claims Tribunal, Rohtak (for short 'the tribunal') under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The case set up by the appellants before the tribunal was that

Jai Parkash, who was husband of appellant No.1 and father of appellants No. 2 & 3, on 25.03.2013 at about 9:30 p.m. was returning to his house from his store on his motorcycle when his motorcycle was hit by a car bearing No. HR-12J/1145 (for short 'the offending vehicle') which was driven by respondent No.1/Jagdev Kumar in a rash and negligent manner, as a result of which, Jai Parkash received fatal injuries to which he succumbed in the General Hospital, Bahadurgarh where he was taken to after the accident.

To prove their case, the appellants examined Meer Singh, who deposed that on 25.03.2013 at about 9:30 p.m., when deceased-Jai Parkash was returning to his house from his store on a motor cycle, then his motorcycle was hit by the offending vehicle which was being driven by respondent No.1 in a rash and negligent manner. As a result of the accident, deceased-Jai Parkash fell down on the road and received serious injuries. Respondent No.1 was stated to have sped away from the spot. Meer Singh further deposed that he informed Narender and Neeraj, brother and son of the deceased about the accident and after the arrival of Narender and Neeraj at the spot, he went to his fields after telling them the registration number of the offending vehicle as also the name of the driver. Meer Singh further stated that he can neither read/write the English language nor can he read alphabets and that respondent No.1 after causing the accident had stopped for a moment and then sped away. The aforesaid Narender and Neeraj also appeared before the tribunal and deposed that about 9:40 pm, they were informed about the accident by Meer Singh and when they reached the spot, Meer Singh and police officials were already present there but statement of Meer Singh was not recorded by the police

at the spot. Narender deposed that on inquiry he came to know that a FIR had also been got registered against some unknown vehicle and deceased- Jai Parkash was got admitted in general hospital, Bahadurgah by unknown persons. He then reached the hospital, where he came to know that his brother had died. Narender further went on to state that Meer Singh had stayed at the spot for about 1-1 ½ hours and he had told him and Neeraj about the registration number of the offending vehicle as also the name of its driver.

Neeraj deposed that when he and Narender reached the spot where the accident had taken place, he saw his father lying on the road with serious injuries. He further stated that the police arrived at the spot after 20 minutes and only after arrival of the police, he and Narender took his father to the hospital in an auto-rickshaw.

A perusal of the statements of Meer Singh, Narender and Neeraj show large scale contradictions.

If, as stated by Meer Singh, he could not read or write alphabets of the English language, he could not have given the complete registration number of the offending vehicle as also the complete address, full name, father's name and the name of the village of respondent No.1.

Meer Singh had stated that when Narender came to the spot, he disclosed to him the registration number of the offending vehicle as also the complete address and full name of respondent No.1. If that had been so, Narender who is the author of the FIR would have disclosed those particulars in the FIR while getting the same recorded. However, the FIR was against an unknown vehicle and driver. Neeraj had stated that the police arrived at the spot after 20 minutes of the arrival of Narender and

Neeraj whereas Narender stated that Meer Singh and as also the police officials were already present at the spot when Narender and Neeraj reached there. There also exist contradictions in the statements of afore-referred three witnesses with regard to the taking of the deceased to the hospital.

The above contradictions have carefully been analyzed by the tribunal on the basis whereof the claim of the appellants was rejected. Nothing has been pointed out by learned counsel for the appellant to persuade me to take a contrary view.

In view of the above, no merit is found in the present appeal.

Dismissed.

(Deepak Sibal)
Judge

August 23, 2017
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Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No