

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

**(209)**

**FAO-1044-2012 (O&M)  
Decided on: May 21, 2018.**

**GURMEET KAUR**

**.... Appellant**

**Versus**

**VARUN MONGA AND OTHERS**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present: Mr. B.S. Aulakh, Advocate  
for the appellant.

Mr. Pawan Gaur, Advocate  
for respondent No.3-Insurance Company.

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**GURVINDER SINGH GILL, J (ORAL)**

Appellant/claimant Gurmeet Kaur has filed this appeal challenging award dated 14.10.2011 passed by learned Motor Accident Claims Tribunal, Muktsar whereby claim petition filed by her seeking compensation on account of death of her son Gurwinder Singh in a motor vehicle accident which allegedly took place on

11.07.2008, has been dismissed.

The case set up by the appellant/claimant is that on 11.07.2008 her son deceased-Gurwinder Singh along with her uncle Major Singh was going on a motorcycle driven by his uncle on which the deceased was sitting on the pillion seat and when they reached near village Warring in Muktsar, a car bearing registration No. PB-04K-4400 came from Kotkapura side being driven by respondent No.1-Varun Monga at a high speed and in a rash and negligent manner and which struck against the motorcycle resulting in death of Gurwinder Singh on the spot.

The respondents contested the claim petition wherein they denied the factum of accident itself. The learned Tribunal upon appreciating the evidence on record held that claimant has not been able to establish that the deceased had died as a result of accident caused due to rash and negligent driving of the respondent No.1, and consequently dismissed the claim petition vide award dated 14.10.2011 which has been challenged by way of present appeal.

Learned counsel for the appellant while assailing the impugned award has submitted that in fact in the criminal case

filed against respondent No.1, two witnesses namely Kashmir Singh and Ajaib Singh had been examined as PW-1 and PW-2 who had categorically stated regarding the manner of accident and in these circumstances even if due to some reason the claimant had been unable to examine the said witnesses, the claim petition ought to have been accepted on the basis of statements of aforesaid witnesses recorded in proceedings of criminal trial.

I have heard the learned counsel for the parties and considered the aforesaid submissions and have also perused the impugned award and record of the case.

As per the case set up in the claim petition, the deceased-Gurwinder Singh was accompanied by his uncle. The claimant apart from herself stepping into the witness-box, has examined CW-2 Rupinderjit Singh, Pharmacist of Government Hospital Muktsar. However admittedly none of the said two witnesses had witnessed the accident in question. Apart from the said evidence no other evidence has been led by the claimant to substantiate the manner of accident. It may not be out of place to mention here that even the FIR (Exhibit P1) in respect of the same was lodged after about 1 month of the accident. Further more,

respondent No.1 who had initially been held guilty by the trial Court has been acquitted upon an appeal filed by him as has been informed by the learned counsel. There is not even an iota of evidence to show that deceased Gurwinder Singh had indeed died in the accident on account of rash and negligent driving on the part of respondent No.1 so as to entitle the claimant for any compensation. There is no infirmity in the impugned award so as to warrant any interference in the same. The appeal is devoid of merits and is dismissed.

**(GURVINDER SINGH GILL)**  
**JUDGE**

***May 21, 2018.***  
*tarun sahani*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No