

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

**FAO No.3549 of 2022 (O&M)  
Date of Decision: 22.08.2022**

**National Insurance Company Limited**

**..... Appellant**

**versus**

**Tamki and others**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Harjinder Singh, Advocate  
for the appellant.

**TRIBHUVAN DAHIYA J. (ORAL)**

**CM No.10121-CII of 2022**

Prayer in this application is for condonation of delay of 39 days in filing the appeal.

For the reasons stated in the application, the prayer is allowed and delay of 39 days in filing the appeal is condoned.

Application stands disposed of.

**FAO No.3549 of 2022 (O&M)**

The Insurance Company has come in appeal by challenging the Award dated 08.02.2022 passed by the Motor Accident Claims Tribunal, Hisar, whereby the claimants were awarded compensation on account of death of Monu in the accident in question. Since the vehicle in question was insured with the Insurance Company/appellant, it was directed to satisfy the award at the first instance.

Learned counsel for the appellant has argued that the factum of accident has not been established as there was no eye-witness of the alleged accident. PW-1/father of the deceased has stated in his testimony that he was not present at the time of the accident. Therefore, the appellant cannot be held liable to pay the compensation.

A perusal of the award passed by the Tribunal establishes that relevant documents were proved on record in the form of copy of police file (exhibit P-3) which reveals that motorcycle in question was recovered by the police from the place of the accident. Investigation conducted by the police further makes it clear that the motorcycle in question was involved in the accident.

Apart from the above, the claimants also placed on record a copy of the postmortem report of the deceased Monu as exhibit P-2, wherein cause of death has been due to head injury with subsequent shock. Merely non-examination of eye-witness, therefore, is no ground to disbelieve the case set up by the claimants.

It has further been observed by the Tribunal that cause of death was primarily within the knowledge of respondent No.1, who was driving the motor vehicle in question at the time of the accident. In case he did not step into the witness-box to rebut the evidence led by the petitioners, an adverse inference is to be drawn against him.

Therefore, there cannot be any manner of doubt that the accident in question has arisen out of the use of motorcycle bearing registration No.HR-80D-2899, which was being driven by respondent No.1 at the time of the accident and resulted in death of Monu, respondents/claimants' son.

Keeping in view the above-said facts and circumstances of the case, the present appeal stands dismissed.

(TRIBHUVAN DAHIYA)  
JUDGE

22.08.2022  
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| Whether speaking/reasoned: | Yes/No |
| Whether reportable:        | Yes/No |