

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****FAO-3536-2021 (O&M)****Date of decision: 18.01.2022**

UNITED INDIA INSURANCE CO. LTD.

...Appellant

Versus

BRAHAM CHAND AND ORS

...Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

Present: Mr. Sandeep Suri, Advocate,  
for the appellant.  
**(Presence marked through Video Conference)**

-.-

**ARUN MONGA, J. (ORAL)**

Aggrieved with the award dated 05.04.2021 rendered by Motor Accidents Claims Tribunal, Hisar (for brevity, Tribunal), Insurance Company has preferred the instant appeal.

2. Brief facts as per the claim petition are that Anand Kumar (since deceased) was found dead on the road after sustaining injuries in a road side accident as informed by some passerby to the police. The foot of the deceased was also found broken at some distance from the dead body and the deceased was identified by claimant No.1 after two days of accident. The details qua the accident are not in knowledge of the petitioners. As per police investigation, respondent Sombir had caused the accident while driving the car bearing registration No. HR-01S-4975 in a rash and negligent manner and this accident was witnessed by Krishan Kumar son of Hari Chand, resident of Village Singhwa Khas, District Hisar, who is running a hotel under the name and style of Shyam Kanhiya Hotel at G.T. Road, Hansi. A criminal case bearing FIR No. 02 dated 05.01.2019, under Sections 279, 304-A of IPC was registered against respondent Sombir at Police Station Bass regarding this accident.

3. The relevant extract of the reasoning which, inter alia, led to awarding of impugned compensation is reproduced herein below:

“12. Learned counsel for the respondents argued that in the FIR Ex.P5, which was recorded on the statement of one EASI Jagdish Chander, the name of the offending driver as well as registration number has not been mentioned and there is nothing in the FIR to suggest that the death of Anand Kumar had occurred due to a road side accident. He further argued that PW-2 Krishan has deposed before this Tribunal that on the alleged date of accident, it was a cold and foggy night. Thus, it does not seem possible that he would have been in a position to note down the registration number of the offending vehicle.

13. However, these contentions of learned counsel are not tenable. In the FIR Ex.P5, it is mentioned that EASI Jagdish Chander was informed by some passerby that an unknown person is lying on the road in an injured condition. He reached at the spot and found said unknown person dead. One broken foot of the deceased was also found at some distance. Nothing adverse could be pointed out by learned counsel for respondent No.3 to doubt the genuineness of the version of the FIR, which was got registered by EASI Jagdish Chander while performing his duties as a responsible police officer.

14. Moreover, PW-2 Krishan was also joined by the police in the course of investigations of FIR No.02 dated 05.01.2019 under Sections 279, 304-A of IPC Police Station Bass and his statement Ex.R1 was also recorded under Section 161 Cr.P.C. PW-2 Krishan was cross-examined at length by learned counsel for the respondents, however, nothing could be elicited to impeach his testimony.”

4. Having heard arguments of learned counsel for the appellant, I find no ground to interfere, particularly, in view of the correct finding of the Tribunal contained in para 14 of the award under challenge. The above said finding of the Tribunal is based on cogent testimony of PW-2, which is reproduced as below:

*PW-2*

*Krishan Kumar son of Hari Chand, aged 35 years, R/o Village Singhwa Khas, Tehsil Bass, District Hisar.*

*Stated that I tender my affidavit of evidence Ex/ PW2/A, which may read my evidence.*

*XXX by respondent counsel*

*Today I have come to Court at the request of Braham Chand petitioner. The accident took place at N.H.9. It is correct that divider is available between the road. I have the hotel of Shyam Kanhiya. It is correct that on 4 and 5 January, 2019 was heavy cold day. Time was 12.30 a.m. morning. It is correct that heavy fog and darkness was on that day. Police recorded my statement on 06 January 2019. The copy of my statement is Ex/R-1. It is incorrect to suggest that no accident took place with car No. HR-01S-4975. I cannot tell how many persons were travelling in offending car and did*

*not see the driver of the car. It is correct that I disclose before the petitioners after two days of the accident. I was intimidated on police Naka. It is incorrect to suggest that I was not present at the time of accident. It is incorrect to suggest that I am deposing falsely being co-villagers of petitioners.*

5. I also do not find any substance in the other insipid argument of learned counsel for the appellant that the above said witness was examined after a delay of 5 days of the accident, by the Investigating Officer pursuant to the FIR. Same has no bearing on the findings rendered by the Tribunal. Delay, if any, was on the part of the Investigating Officer and the same cannot be the ground to doubt the statement made by the aforesaid witness. There is no room for interference by this Court.

6. Dismissed.

**(ARUN MONGA)**  
**JUDGE**

**January 18, 2022**  
Vandana

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