

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

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FAO-1107-2025 (O&M)**Date of decision: 18.02.2025****Sh. Rajinder Bajaj and another****...Appellant(s)****Vs.****Dinesh Kumar Yadav and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Deepak Goyal, Advocate for the appellants.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants laying challenge to the Award dated 30.11.2024 passed by learned Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as "the learned Tribunal"), whereby in the claim petition No. MACP 49 dated 02.02.2023 filed by the appellants under Sections 166 and 140 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"), the appellants have been granted limited relief under Section 140 of the Act by way of compensation of Rs.50,000/- along with interest @ 9% per annum from the date of filing of the petition till realization, on account of death of their son Rishab Bajaj in the accident which occurred on 08.09.2022. The 2 claimants are the parents of the deceased.

Brief facts of the case are that the appellants/ claimants had filed the above said claim petition pleading therein that on 8.9.2022 at about 11:30 p.m. when the deceased did not return home, they inquired



about his whereabouts but all in vain. On 9.9.2022, Rahul came to the house of the claimants and informed that the deceased Rishab had met with an accident with a vehicle bearing registration No. HR-38-AC-3455 (Trolla) (hereinafter referred to as “the subject vehicle”). Rahul informed the claimants that the deceased Rishab was riding the motorcycle bearing registration no. HR-29-AU-7599 of which Rahul was the pillion rider and that the motor-cycle hit the stationary trolla (subject vehicle), which is parked on the road due to which Rishab suffered grievous injuries all over his body. He was taken to B.K. Hospital, Faridabad, but he succumbed to his injuries there. It was further pleaded in the claim petition that on the statement of father of the deceased/claimant No.1 an FIR bearing No. 557 dated 9.9.2022 was registered at Police Station Mujessar under Sections 283, 304 A and 427 IPC against the driver of the subject vehicle/respondent No.1. The claimants further pleaded that deceased was 22 years old at the time of accident; that he was working as an Assistant with M/s. Chawla Traders and was earning Rs.18,000 per month; he was the sole bread-earner of the family. Accordingly, compensation of Rs. 50 lacs was prayed for along with interest @ 18% per annum.

The learned Tribunal on the basis of the evidence adduced by the parties, concluded that the claimants had failed to prove that the deceased motorcyclist had expired in a road accident due to the rash and negligent act of parking of the subject vehicle in the middle of the road by respondent No.1. Accordingly limited relief under Section 140 of



the Act was granted to the claimants by awarding sum of Rs. 50,000/- along with interest @ 9% per annum. Respondents No. 2 and 3/ Owner and insurer, respectively, of the subject vehicle were held jointly and severally liable to pay the compensation.

Learned counsel for the appellants submits that the learned Tribunal was in patent error in granting limited relief to the appellants as it was proven on record especially from the testimony of the eyewitness PW1 Rahul that the subject trolly was parked in the middle of the road. Admittedly, the accident had taken place at about 11:30 p.m. at night. The trolly was parked without its light on. As such, the trolly was not visible and the accident had occurred due to the wrong parking by respondent No.1. It is submitted that it was specifically stated by eye witness Rahul, who was pillion rider of the motorcycle which was being driven by the deceased that the trolly was parked in the middle of the road without any lights on. As such, the conclusion of the learned Tribunal to the contrary is unsustainable. It is submitted that PW1 Rahul has categorically stated that trolly was standing in the middle of the road without light on as a result of which the motorcycle driven by the deceased on which PW1 was pillion rider, struck in the trolly from the back side. Accordingly, claim petition of the appellants ought to have been allowed.

No other argument is raised on behalf of the appellant.

I have heard learned counsel for the appellant and perused the case file in great detail.



The clear categoric findings of the learned Tribunal are contained in para 20 and 21 of the impugned Award, which read as follows:-

“20. Hence, in the considered opinion of this Tribunal, since the subject vehicle was static and parked on the side of the road, as per the Site Plan-Ex.R1 of the place of accident, as drafted by the I.O. Police Station: Mujessar on 09.09.2023 (in the Criminal Case of rash and negligent act of the respondent no.1/Driver of the subject vehicle), according to which, subject vehicle was shown to be parked on the extreme side of the road Point-A and the road, where the accident took place, was also not narrow that a motorcycle could not cross the static vehicle, the deceased motorcyclist appeared to be riding his vehicle, at an uncontrollable speed, which resulted into the accident and ultimately, his death. Admittedly, as per PW1 (who otherwise, was not proved to be either the pillion rider or the eye-witness of the accident), the deceased motorcyclist was not wearing a helmet, at the time of the accident. In case, he would have been wearing a helmet, while riding, there were chances that he could survive the accident.

21. The mere fact that a case is pending for rash and negligent driving against the Driver of the subject vehicle (herein, the respondent no.1) does not mean that the accused was negligent. In Road Accident Cases negligent or rashness cannot be presumed unless there is credible evidence to support the allegation. In the absence of any material on record, therefore, no presumption of rashness or negligence can be drawn against the respondent no.1/Driver of the subject vehicle (i.e. the accused in the Criminal Case).”

(Emphasis added)

From the above it is clear that as per the site plan Ex.R1 of the place of the accident, the subject vehicle was static and parked on the extreme side of the road. It is also clear that the road at that point was not so narrow that the motorcycle of the deceased could not have passed comfortably. From the above, it is derived that the deceased was driving the motorcycle at high speed. Even presence of alleged eye witnessPW1 as pillion rider of the deceased, was doubted . As such, testimony of PW1 to this effect is incorrect. Further it has been admitted by PW1 that the deceased motorcyclist was not wearing helmet at the time of accident.

As such, I find no ground is made out that calls for interference in the impugned Award.

The present appeal is hereby **dismissed**.

Pending application(s) if any also stand(s) disposed of.

18.02.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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