

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****104****Date of decision: 24.01.2025****1. FAO-559-1998 (O&M)****Maghar Singh and another****...Appellant(s)****Vs.****Kesar Singh and others****...Respondent(s)****AND****2. FAO-801-1998 (O&M)****Tara Singh****...Appellant(s)****Vs.****Kesar Singh and others****....Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Vinod K. Kataria, Advocate for
the appellants(in FAO-559-1998).

Mr. Vipul Sharma, Advocate for
Mr. Paul S.Saini, Advocate
for respondent No.3-Insurance Co.

*********NIDHI GUPTA, J.****FAO-559-1998:**

The present FAO-559-1998 has been filed by the parents of the deceased-Joginder Singh, against the dismissal of their claim petition filed under Section 166 of the Motor Vehicles Act, by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as "Tribunal"), vide the impugned Award dated 07.10.1997. The said claim petition was filed by the appellants with the averments that the deceased Joginder Singh had



died in a motor vehicular accident that took place on 18.11.1991 due to the rash and negligent driving of the truck bearing registration No. JKS-5831 (hereinafter referred to as the “alleged offending vehicle”) by respondent No.2 herein. The alleged offending vehicle was insured by respondent No.3 herein.

FAO-801-1998:

The present FAO-801-1998 has been filed by the injured-claimant against the dismissal of his claim petition filed under Section 166 of the Motor Vehicles Act, by the learned Tribunal, Patiala vide the impugned Award dated 07.10.1997. The said claim petition was filed by the appellant, namely Tara Singh claiming compensation on account of the injuries suffered by him in a motor vehicular accident that took place on 18.11.1991 allegedly due to the rash and negligent driving of the alleged offending vehicle by respondent No.2 herein. The alleged offending vehicle was insured by respondent No.3 herein.

2. Both the above said appeals are being disposed of by this common order as both the appeals pertain to the same accident, and challenge in both the claim petitions is to the Award dated 07.10.1997 passed by the learned MACT, Patiala whereby the respective claim petitions filed by the appellants, have been dismissed.

3. For the sake of facility, facts are being drawn from FAO-559-1998.

4. Ld. counsel for the appellants/parents of the deceased Joginder Singh *inter alia* submits that at the time of accident, the



deceased Joginder Singh was 24 years old and posted as a Constable in the C.I.A. Staff, Patiala drawing monthly salary of Rs.2,000/-p.m. It is contended that the claim petition of the appellants has been wrongly dismissed only on the ground that there was confusion with regard to the vehicle in which the deceased was travelling at the time of accident. It is submitted that it was the clear case of the appellants that on the evening of 18.11.1991, deceased Joginder Singh alongwith some other persons was going in a private Maruti car bearing registration No. PB-11-7689 towards Patiala. The said car had been provided by the CIA staff and was being driven by Gurmit Singh at slow speed observing the traffic rules when the alleged offending vehicle being driven by respondent No.2 came in a zig zag manner and struck rashly and negligently into the Maruti car of the deceased. As a result, Constable Joginder Singh and one other person by the name of Raju died at the spot, and other occupants of the car including co-claimant Tara Singh (appellant in FAO-801-1998) suffered multiple injuries.

5. Learned counsel submits that both the petitions have been dismissed only on the ground that upon enquiry, the registration of “Maruti Car” was found to be that of a “Scooter” and not of a “Car”. On this short ground itself, the learned Tribunal had disbelieved the story of the claimants. It is submitted that however, the said Maruti car was provided by the CIA staff. Moreover, the only requirement as per law and the Act, was that the accident be proven. In the present case, there is no dispute with regard to the fact that the accident had occurred. As such



the claim petition of the appellant could not have been dismissed. It is also admitted on record that in respect of the said accident, FIR was also lodged against the respondents No. 1 and 2 (owner and driver respectively of the alleged offending vehicle). Even the car and the offending vehicle were taken into possession. Further, in passing the impugned award, the learned Tribunal had failed to appreciate that the Motor Vehicles Act is beneficial legislation in which only the accident has to be proven.

6. Learned counsel for the injured-appellant (claimant in FAO-801-1998) reiterates the above submissions and further submits that the injuries on the claimant Tara Singh were duly proven before the learned Tribunal in accordance with law. In fact, Tara Singh was an eye-witness to the entire accident and had appeared as AW-2; and it is at his instance that the FIR was registered. As such, the version of the claimants has been wrongly disbelieved by the learned Tribunal. It is submitted that the injured-claimant Tara Singh was about 40 years old at the time of accident and was employed as Assistant Sub Inspector in Punjab Police at C.I.A. Staff, Patiala and drawing a salary of Rs.3,340/- p.m. In the accident in question, the right hand of the claimant was totally crushed and removed, the right upper part of his arm was also fractured. Accordingly, compensation was sought by the claimant from the respondents who are jointly and severally liable to pay the compensation amount. It is accordingly prayed that the impugned Award be set aside and compensation be awarded to the appellants.



7. Per contra, learned counsel for respondent No.3-insurance co. opposes the prayer made on behalf of the appellants and submits that it is an unfortunate case where the injured and the deceased are police officials, false and fabricated documents have been produced only in order to get compensation. It is pointed out that there are numerous discrepancies in the case put forth by the claimants due to which their claim petitions have been dismissed. Learned counsel accordingly contends that there is no infirmity in the Award passed by the learned Tribunal; and prays for the dismissal of the present appeals.
8. No other argument is raised on behalf of the parties.
9. I have heard learned counsel for the parties and perused the case file in great detail.
10. Perusal of the record of the case shows that as has been noted above, it was the clear case of the appellants/claimants before the learned Tribunal that on the date of alleged accident i.e. 18.11.1991, the deceased Joginder Singh alongwith some other persons was coming in a private Maruti Car bearing registration No. PB-11-7689 from Shambhu Barrier to Patiala. It was the case of the appellants that the said car had been provided to the deceased/injured by the C.I.A. Staff, Patiala. It was alleged in the claim petition that the said car was being driven by one Gurmit Singh observing the traffic rules. However, the alleged offending vehicle which was being driven by respondent No.2 in a zig zag, rash and negligent manner came and struck against the car due to which the Constable Joginder Singh and one Raju died at the spot, and other



occupants of the car including injured-Claimant Tara Singh who was employed as Assistant Sub Inspector in Punjab Police at C.I.A. Staff Patiala, suffered injuries.

11. The learned Tribunal on the basis of the pleadings as also the oral and documentary evidence brought on record by the parties, discarded the story put forth in the claim petitions on the ground that upon investigation, it was found that the registration No. PB-11-7689 did not belong to the Maruti Car but was allotted to a scooter. The said fact was duly proved on record on the basis of the evidence of RW2/Sampuran Singh Clerk, office of DTO Patiala. RW1/Vishnu Dutt Sharma Ahlmad, in the Court of Sub Divisional Judicial Magistrate Rajpura where challan under section 279 and 304 A IPC was filed against respondent No.2, deposed that according to recovery memo dated 12.11.1991 (Ex.R1), the police had taken possession of the alleged offending vehicle i.e Truck bearing registration No. JKS-5831 and Maruti car bearing registration No. PB-11-7689. He further admitted that the file does not contain any application vide which the damaged car was given on Supardari; nor did the record show that the police had taken into possession registration certificate of the Maruti Car. Even RW4 Jawahar Singh ASI who had been directed to examine and give his report with regard to the alleged offending vehicle and the Maruti car, was unable to tell even the colour of the Maruti car bearing registration No. PB-11-7689 in his report (Ex.R5).

12. Furthermore, numerous discrepancies and contradictions abound in the case record. Such as in the FIR there is mention of Maruti



car. However no registration Number of the car has been mentioned in the FIR. Admittedly, Maruti vehicle was not released to anyone. Neither was the driver of the alleged offending vehicle arrested during investigation. Only the truck was taken into possession by the police; whereafter it was released on supardari. It is on these and other following findings and grounds that the Id. Tribunal disbelieved the the story put forth by the claimants. The other relevant findings of the learned Tribunal are containing in para Nos. 21, 22 and 23 of the impugned Award, which read as under:-

"21. Hari Singh, A.S.I. appeared as R.W.6. He stated that he had brought the original F.I.R. No. 175 dated, 19.11.91 which was registered under Sections 304, 279, 337, 338 and 427 of the Indian Penal Code. The investigation of the case was done by Amarjit Singh A.S.I. who has since died. According to the recovery memo. Truck No. JKS-5831 and Maruti Van No. PB-11-7689 were taken into possession. Copy of the same is Ex.R-1. According to the record, registration certificate of Maruti Van was not taken into possession. He did not know the owner of Maruti Van. No statement of any person regarding the ownership of Maruti van was recorded. There is no document regarding the releasing of the Maruti van on spurđari. In his cross-examination he stated that he did not know if there was any F.I.R. regarding the theft of Maruti van. He searched for the accused.

22. On the consideration of the evidence produced by the parties, I am not satisfied that any accident between truck No.JKS 5831 and Maruti Van No. PB-11-7689 took place as alleged by the claimants. I am further not satisfied from



the record that Joginder Singh and Raj Kumar deceased died in the alleged accident as claimed by the claimants. From the evidence produced by the parties it is clear that there is no car or Maruti van with registration No.PB-11-7689 because the said number was allotted to a scooter/Motor-cycle. Even the eye-witness Tara Singh, who appeared as A.W.2 and at whose instance the case was registered, has made inconsistent and contradictory statement regarding the vehicle involved in the accident. In the starting lines of his examination-in-chief he stated that they left Ambala in a private Maruti car which was being driven by Gurmit Singh Constable. He further stated that Gurmit Singh slowed down the speed of the car and the driver or the truck brought the vehicle on the wrong side and struck against the Maruti car. The F.I.R. (EX.PA) at some places shows that it was a Maruti car and at other places it is mentioned that it was Maruti Van. According to Jawahar Singh A.S.I.(RW4), he examined truck No. JKS 5831 and Maruti Car No. PB-11-7689. He stated that the vehicles were inspected in the police Station. According to A.S.I. Hari Singh (RW 6), the vehicles, which were taken into possession, were truck and Maruti van. He identified the signatures of Amarjit Singh on copy of the recovery memo (Ex. R1). Ex.R 1 placed on the record shows that it was Maruti van No. 7689 which was taken into possession and not the Maruti Car. The report of Jawahar Singh A.S.I. shows that he mechanically tested Maruti car. In this manner, the evidence on the record leaves no doubt in my mind that the police fabricated false evidence in order to get a claim for the claimants because excepting Raj Kumar, all other occupants involved in the accident were police officials. If the Police took into possession Maruti van, then how Jawahar Singh could say that he mechanically tested Maruti



car bearing the same registration number. It shows that all the documents were prepared subsequently. So-much-so no other witness has been produced by the claimants to corroborate the statement of A.W.2 Tara Singh. Even driver Gurmit singh, who is official of the police department, has not been produced. Non-examination of Gurmit Singh driver in this case is a serious lacuna in the evidence of the claimants. Only Gurmit Singh driver could explain as to what vehicle was being driven by him and who was at fault in the matter of causing the accident. Thus the claimants withheld the best evidence in this case and accordingly I draw adverse inference against them that had Gurmit singh been produced as a witness, he would not have supported that case of the claimants. It is unimaginative that Gurmit Singh Could escape unhurt.

23. *Statement of Tara Singh (AW-2) in this case is not worthy of credit at all. His statement has been contradicted by the Statements of other official witnesses namely Hari Singh (Rw-6) and Vishnu Dutt Sharma (RW-1). Tara Singh could not explain that how they went to Ambala and from where they got the Maruti vehicle. They have not examined the Inspector C.I.A. Staff, Patiala, who allegedly gave the vehicle to them. It is no understood as to from where the Maruti vehicle came to the C.I.A. Staff and how they were using the same. Prem Kumar (RW-5) who conducted the private investigation in this case at the instance of the Insurance Company categorically stated that he inspected the vehicles. PB-11-7689 was a van. Thus, his statement and that of Hari Singh (RW-6) shows that it was hot Maruti Car which was involved in the accident and it was Maruti Van."*



- 13. Learned counsel for the appellants are unable to controvert or dispute the above said findings.
- 14. In view of the above, both the appeals stand **dismissed**.
- 15. Pending application(s) if any also stand(s) disposed of.

24.01.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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