

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****251****FAO-2380-2020(O&M)****Date of decision: 25.08.2025****Dalbir Kaur & Others****...Appellant(s)****Vs.****Sukhwinder Singh & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Yogit Mehta, Advocate
Mr. Divyansh Arora, Advocate
Mr. Jagdish Manchanda, Advocate
for the appellants.

Mr. Abhinav Kaushal, Advocate for
Mr. Ashit Malik, Advocate
for respondents No.1 and 2.

*********NIDHI GUPTA, J.**

Present appeal has been filed by the claimants against the dismissal of their Claim Petition by the Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the learned Tribunal') vide Award dated 29.02.2020 passed in MACT Petition No.436 dated 03.12.2015 filed under Sections 166/140/141 of the Motor Vehicles Act (hereinafter referred to as "the Act"). The 5 claimants are the widow, 2 minor children, and parents of deceased Hardeep Singh.



2. Brief facts of the case are that the Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties had concluded that the appellants had been unable to prove that deceased had died due to the injuries suffered by him in the motor vehicular accident that took place on 01.05.2013 at about 10:45 pm due to the rash and negligent driving of motorcycle bearing registration No.HR-07S-3507 (hereinafter 'the alleged offending vehicle'), by respondent No.2. The said motorcycle was owned by respondent No.1 and insured by respondent No.3.

3. Learned counsel for the appellants submits that the learned Tribunal erred grossly in ignoring the contention of the present appellants/claimants that the present respondents have not adduced any evidence to prove his case as well as pleading which has been made in the form of written statement against the present appellants. There is nothing on record to support the pleadings of the respondents. The claim petition cannot be dismissed without deposing / making statement in support of their pleadings.

4. It is further contended that the Ld. Tribunal committed a legal error in dismissing the claim petition in the absence of evidence to prove the pleadings made by the respondents. It is well settled proposition of law that when respondents themselves have not come into the witness box to prove the case then it is presumed that whatever they had pleaded in the written statement are not correct. Then it is presumed that whatever they



had pleaded in the written statement is incorrect. In the instant case, the respondents have not led any evidence and there was no occasion with the Ld. Tribunal to dismiss the claim petition. Therefore, the Award passed by the Ld. Tribunal dated 29.02.2020 is illegal, wholly without jurisdiction and liable to be set aside by granting full compensation as claimed by the appellants-claimants in their claim petition.

5. Moreover, appellants have already deposed that Kashmir Singh was present at time of occurrence and has been examined as PW4. Although, the FIR was lodged by Karam Chand who deposed specifically that his nephew who was working on the combine of Sh. Jagjit Singh Bajwa PW3 and he was coming back after doing his work and cause accident by the driver of motorcycle no. HR-07S-3507. The FIR is Exhibit P-3 and site plan is Exhibit P-2, the final report under section 173 is Exhibit P-1 and the postmortem report is Exhibit P-4. It is also mentioned that the motorcycle HR-41-C-1338 and motorcycle no. HR-07S-3507 were taken into possession during the investigation. It is pertinent to mention here that the present respondents no. 1 and 2 have not made any application to the police authority with regard to their false implication of respondent no.2 as well as motorcycle no. HR-07S-3507. The Ld. Tribunal has taken the adverse inference against the appellants due to the reason that name of police official has been mentioned in the postmortem report who brought the dead body to the hospital. It is pertinent to mention here that once the



police has been reached at the spot and the injured/deceased has taken to the hospital by mentioning his name in the postmortem report does not curtail the deposition of the accident which has been explained and proved by the present appellants/claimants but adverse inference wrongly taken against the present appellant.

6. It is further submitted that although the judgement has not been produced by the respondents in their evidence, it is well settled law that the finding given by the Criminal Court is not binding upon the Civil Court. The appellants have already shown their apprehension that respondent no.1 and 2 are influential person they have manipulated the things and overpowered the eyewitnesses. The FIR exhibit P5/A has been proved by Sub Inspector Phool Singh who had been examined as PW5. Therefore, the Award passed by the Ld. Tribunal dated 29.02.2020 is illegal, wholly without jurisdiction and liable to be set aside by granting full compensation as claimed by the appellants in their claim petition.

7. No other argument is made on behalf of the appellants.

8. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions made on behalf of the appellants.

9. The pleaded case of the appellants in their claim petition before the learned Tribunal as recorded in para two of the impugned Award is that:-

“2. Brief facts leading to the filing of this claim petition are that the accident in question took place on 01.05.2013 at about 10.45 p.m. where Hardeep Singh (since deceased) was driving his motor cycle no.HR-41-C-1338 and was going towards his village



where from the opposite side a motor cycle no.HR-07S-3507, driven by respondent no.2 came from opposite directions and hit the motor cycle of Hardeep Singh (since deceased) while coming on the wrong side, in a rash and negligent manner. The accident in question took place due to rash and negligent driving of respondent no.2, who drove the motor cycle at an uncontrollable speed and hit the motor cycle of Hardeep Singh (since deceased) while going on the wrong side. Hardeep Singh (since deceased) received fatal injuries in this accident and died at the spot, which took place due to rash and negligence driving of respondent no.2. The accident in question took place near the fields of Surinder Singh Rana. This occurrence was witnessed by Karam Chand and many other co-villagers, who were working in their fields and rushed to the spot. after this respondent no.2 left the place of accident after about 10/15 minutes stealthy, one co-villager namely Kashmir started looking after Hardeep Singh (since deceased). Postmortem was conducted by doctor on duty at LNJP hospital, Kuruksehtra on 2.5.2013. Thus prayed that award of Rs.Twenty lakh be passed alongwith interest at the rate of 12% per annum from the accident till its realization.”

10. A bare reading of the above shows that as per the appellants, the accident in question was witnessed by Karam Chand and many other co-villagers including one Kashmir Singh. However, as per the FIR (Ex.P3), there are 2 main eyewitnesses to the accident being Karam Chand and Kabal Singh and no other eyewitness. Notwithstanding the said discrepancy, it is to be noted that in the present case, none of the said eyewitnesses have been examined.

11. Further, in respect of the said accident in question, FIR No.54 dated 02.05.2013 registered under Sections 279/304-A IPC at Police Station Ismailabad on the statement of eyewitness Karamchand. However, it is trite



that if the accident in question had taken place in the presence of Karam Chand, who is real uncle of the deceased, he would have accompanied the dead body of the deceased to the hospital. The Post-Mortem Report records to the contrary.

12. It is also important to note that respondent No.2/driver of the offending motorcycle has been acquitted in the case FIR No.54 dated 02.05.2013 by the learned Judicial Magistrate, First Class, Pehowa vide judgment dated 14.10.2015 (Annexure A1). In the said criminal trial, Karam Chand had appeared as PW3. It is categorically recorded in the judgment of acquittal dated 14.10.2015 that Karam Chand had deposed that on 01.05.2013, he along with Kabal Singh “...was coming from Mustapur on his motorcycle bearing registration No. HR-41-F-7554. His nephew Hardeep Singh was also going ahead of them on his motorcycle bearing registration No.HR-41-C-1338. In the meantime, a motorcycle coming from the front side hit into the motorcycle of his nephew Hardeep Singh and due to which his nephew Hardeep Singh fell on the road and succumbed to injuries at the spot. Due to darkness, he could not identify the accused. He cannot tell the registration number of the offending motorcycle. Further, he has stated that he has seen the accused present in the court and he is not the same person who caused accident with his nephew Hardeep Singh. At this stage, this witness was declared hostile on the request of Id. APP for the State...” Thus, star witness, Karamchand has turned hostile in the criminal trial.



13. It is also to be noted that Kashmir Singh has been examined as eyewitness PW4. However, no weightage can be given to his testimony. In this regard, it is very important to note that the claimants had previously filed a Claim Petition under Section 163-A of the Act, which was subsequently withdrawn; and the present Claim Petition under Sections 166/140/141 of the Act was filed. In the previous withdrawn Claim Petition, Kashmir Singh was examined as PW3 and had deposed that he was at a distance of 1 acre from the place of accident. The said testimony of Kashmir Singh establishes that he was not present at the place of accident. Moreover, Kashmir Singh did not join the Police during investigation. Clearly, therefore, the claimants were unable to prove that the accident dated 01.05.2013 had occurred due to the rash and negligent driving of the offending vehicle; and hence, the Claim Petition has been rightly dismissed.

14. In view of the above, present appeal is **dismissed**.

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

25.08.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No