



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

205

FAO-860-2001 (O&M)

Date of decision: 20.05.2025

Surinder Kaur and others

...Appellant(s)

Vs.

Karnail Singh and another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. L.S.Lakhanpal, Advocate
for the appellants.

Mr. Maninder Jit, Advocate for
Mr. Amit Jaiswal, Advocate for
respondent No.1.

Mr. Vinod Gupta, Advocate for
respondent No.2-insurance co.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants against the dismissal of their claim petition by the learned MACT, Ambala (hereinafter referred to as 'the Tribunal'), vide Award dated 30.08.2000 passed in MACT Case No. 99 dated 28.04.1999 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 4 claimants are the widow, 2 children, and mother of the deceased Milkha Singh.

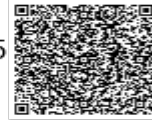
2. Brief facts of the case are that the Tribunal on the basis of pleadings and evidence adduced before it concluded that the claimants were unable to establish that deceased Milkha Singh had died due to the injuries suffered by him in the motor vehicular accident that occurred on



28.08.1998 at about 08:30 p.m. due to the alleged rash and negligent driving of Three Wheeler bearing registration No. HR-01B-8565 (for short “the alleged offending vehicle”) being driven and owned by respondent No.1; and insured by respondent No.2. The claimants were unable to prove the negligence of respondent No.1; and accordingly, learned Tribunal held that the claimants were not entitled to compensation.

3. Learned counsel for the appellants submits that it is recorded fact that respondent No.1 in his written statement has admitted that accident had taken place. It is submitted that in view of this admission, claim petition of the appellants could not have been dismissed. It is submitted that moreover, the claimants had produced eyewitness Maya Chand PW1. Maya Chand has categorically stated that the accident had taken place due to rash and negligent driver of the offending three-wheeler by respondent No.1. Eyewitness Maya Chand had also noted the number of offending three-wheeler. He was also examined by the police, where he had disclosed the same. Presence of Maya Chand at the spot of accident cannot be doubted as he had come to Rai market to get his vehicle repaired. However, his evidence has been wrongly disbelieved by the Id. Tribunal. It is submitted that therefore, claim petition of the appellants could not have been dismissed. It is accordingly prayed that the present appeal be allowed; and impugned Award dated 30.08.2000 be set aside.

4. *Per contra*, learned counsel for respondent No.2-Insurance co. vehemently opposes submissions made on behalf of the appellants



and submits that a bare perusal of the record of the case amply evidences that utterly false claim has been set up by the claimants. It is submitted that the date of accident is 28.08.1998; whereas FIR has been registered almost 8 months thereafter on 08.04.1999. Maya Chand, the alleged eyewitness is a procured witness and no reliance can be placed upon his false testimony. It is accordingly prayed that the present appeal be dismissed.

5. No other argument is raised on behalf of the parties.

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

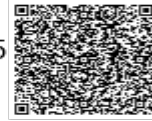
7. I find merit in the submissions advanced by learned counsel for respondent No.2-Insurance Company. It was the pleaded case of the appellants before the learned Tribunal that on 28.8.98 at about 8.30 p.m., Milkha Singh was going on his Tea stall and was near the Military hospital, Mall Road Ambala Cantt. when the alleged offending three-wheeler bearing registration No.HR-01B-8565 came at a high speed from the opposite side and hit the scooter of Milkha Singh by going to the extreme opposite side of the road and as a result, the deceased suffered injuries. The scooter was also damaged. The deceased was taken to the Military Hospital Ambala Cantt. where he died on the next day i.e. 29.8.98. It is pleaded that the deceased had retired from the Indian Army and was getting pension of Rs.3600/-p.m. and was earning Rs.3000/-pm from his tea-stall after meeting all the expenses. The claimants had sought compensation of Rs.10,00,000/-



on account of death, transportation, funeral expenses etc. from the respondents. The age of the deceased has been given as 47 years.

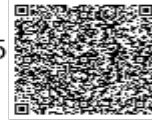
8. It is to be noted that the accident is stated to have occurred on 28.8.1998; whereas FIR was registered on 08.04.1999 on the basis of the statement made by claimant No.1/widow of the deceased; whereafter present claim petition was filed on 28.04.1999. No reasons whatsoever have been given by the claimants for the delay of 8 months in registering the FIR.

9. The said delay becomes incongruous, also in view of the fact that as per the claimants the accident was witnessed by Maya Chand PW1. Maya Chand had deposed that he had witnessed the accident which was caused by the rash and negligent driving of respondent No.1. Maya Chand also deposed that he had noted down the no. of the offending vehicle and had disclosed the same to the police. However, Maya Chand has admitted in his cross-examination that despite witnessing the accident, and noting down the number of the offending vehicle, he had not visited the police station on the date of accident. Maya Chand also admitted that he had not taken the deceased to the hospital. He even admitted that he had not informed the family members of the deceased on the date of accident. As such, presence of Maya Chand at the time and place of accident becomes doubtful. Further, no doubt, respondent no.1 had stated in his written statement that accident had taken place with his three wheeler; however, he has also stated that the accident had occurred due to the rash and negligent driving of the deceased.



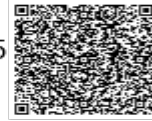
10. Relevant findings of the Id. Tribunal in this regard are as under
- “11. To prove the negligence of the driver of the offending vehicle, the claimants had examined Maya Chand PW1 who deposed that on 28-8-98, he was going from his village Hawana Distt. Kurukshetra to village Tundla near Ambala Cantt. at about 8/9.00 p.m. when a three-wheeler was going ahead of his car which was being driven in a rash and negligent manner by its driver and a scooter was coming on the left side of the road at a moderate speed and the driver of the three wheeler took his three wheeler on the extreme wrong side of the road hitting the scooterist. According to the witness, he went up to the driver of the hospital. He stated that he had also noted down the registration number of the three-wheeler and when he was examined by the police lateron, he had disclosed. He stated that he narrated the incident when he had come to Rai Market to get his vehicle repaired and it was thereafter, that the police had recorded his statement. He stated that lateron, he had come to know that the deceased was Milkha Singh. In his cross-examination by the Insurance company, he stated that he had not visited the police Station on the date of accident. He also admitted that he had not taken the deceased to the hospital. He gave the number of the scooter as 9230 but could not get the alphabets which pre-fixed it. He denied that he was not present on the spot. He stated that he had not informed the family members of the deceased on the date of the accident. In the cross-examination effected by the Learned counsel representing the driver, it was denied that the accident took place on account of the rash and negligent driving by the deceased.*

XXX XXX XXX



15. *The accident is alleged to have taken place on 28-8-98 and the First Information Report was got registered on 8.4.99 by Surinder Kaur, and the claim petition was filed on 28-4-1999. Ex.P2 is in-fact, the report under Section 173 Cr.P.C. and it has been mentioned therein that a rukka had been received from the Medical Officer that Milkha Singh son of Harbans Singh was admitted in the hospital, on which, Padam Singh, ASI visited the hospital and Surinder Pal Singh had made a statement that the accident took place when suddenly a cow had come in front of the scooter, on which, Milkha Singh fell down and received injuries. The post-mortem was got done by the police Authorities but on 8-4-1999, an application was given by Surinder Kaur widow of the deceased that they had on their own, made enquiries and had found out that the accident had taken place on account of rash and negligent driving of three wheeler bearing regn. No.HR-01-B/8565 and a suitable action should be taken against the driver of the offending vehicle.*

16. *The case put forward by the complainant is that they came to know that the accident had occurred on account of rash and negligent driving of the driver of the three-wheeler when Maya Chand unfolded the story. Maya Chand is a resident of District Kurukshetra and his presence at that hour in Ambala Cantt, appears doubtful, specially when he did not take the injured to the hospital nor he had gone to the police station for lodging a report. There is a ring implausibility in the conduct of the witness and it is not safe to rely upon the evidence of this witness. Maya Chand did not know the deceased or his family members and how he came into contact with the family members of the deceased, has not been explained. What he has stated in his examination-in-chief, is that he had disclosed*



the factum of the accident at the shop of the shocket Repairer in Rai Market. He did not say that whose shop and to whom, and when the matter was disclosed. There is no explanation as to why it took nearly six months to reveal the matter.

17. *The first version which had come out in the police records, was that the accident had occurred when suddenly a Cow had appeared on the road. The injured had not with an accident on 28.08.98 and he had died on the next day. The post-mortem Report shows the presence of two persons, Manjit Singh and, one Jasbir Singh. The MLR has not been produced on the record as that document could have also disclosed the name of the person who had brought the injured to the hospital. It appears that there are certain aspects which have been kept away and there is no ring of truth in the testimony at Maya Chand.*

18. *No doubt, Karnail Singh driver, who is said to be driving the offending three-wheeler, has admitted that the accident took place with his three-wheeler but according to him, it was on account of rash and negligent driving of the deceased. Keeping all this, into view, it is found that the negligence on the part of the driver of the three-wheeler, has not been established. The testimony of Maya Chand, who is the solitary witness, cannot be believed as his presence on the spot is doubtful, specially when he had not accompanied the injured to the hospital nor had informed the police about the accident. It appears improbable that he would remember the registration number of the offending vehicle and retain it in his memory for so long and per chance, he would met some one from the family of the deceased. The entire case appears to be concocted and it would not be safe to rely upon his testimony.”*



11. Learned counsel for the appellants is unable to dispute or controvert the above said facts and findings on record.
12. In view of the above, no ground is made out to interfere in the impugned Award dated 30.08.2000. The present appeal is hereby **dismissed.**
13. Pending application(s) if any also stand(s) disposed of.

20.05.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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