

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****119****FAO-3951-2019 (O&M)****Date of decision: 25.08.2025****Akbari and others****...Appellant(s)****Vs.****Abdul Khan and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Saleem Ahmed, Advocate for the appellants.

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

The present appeal has been filed by the claimants against the dismissal of their claim petition by the learned MACT, Gurugram (hereinafter referred to as 'the Tribunal'), vide Award dated 21.02.2019 passed in MACT Petition No. 26 dated 18.01.2017 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 6 claimants are the 41-year-old widow; 21-year-old son; 12-year-old daughter; 11-year-old son; 7-year-old son; and 4-year-old son of the deceased Fajar Khan.

2. Brief facts of the case are that the learned Tribunal upon appraisal of the pleadings as well as oral and documentary evidence led before it, had concluded that the claimants had failed to prove that the accident dated 13.06.2016 had been caused due to rash and negligent driving of a Maruti Swift Dzire Car bearing registration No. HR-26-CQ-0991 (hereinafter referred to as "the alleged offending vehicle") being driven by



respondent No.1; owned by respondent No. 2; and insured by respondent No.3. In fact, the Tribunal has concluded that the respondents No. 1 and 2 in collusion with the appellants, had planted the offending vehicle subsequently in order to claim compensation.

3. Learned counsel for the appellants submits that the learned Tribunal was in patent error in dismissing the claim petition as it failed to appreciate that it was the Investigating Officer, who had failed to examine Nand Kumar, who was the eyewitness of the accident in question. It is submitted that the appellants cannot be made to suffer as PW6 Investigating Officer did not verify particulars of the offending vehicle from Nand Kumar. It is contended that in any event, it is proved on record that the accident was caused by the alleged offending vehicle. Hence, claim petition could not have been dismissed.

4. Learned counsel for the appellants also submits that in respect of the accident, FIR No. 168 dated 13.06.2016 under Sections 279/304A IPC was registered at Police Station DLF Phase 1 Gurugram; whereafter challan was also filed against respondent No.1. It is contended that the very fact that no objection was ever filed by any of the respondents including the Insurance Company that the accident was not caused by the offending vehicle, proves that accident was caused by the offending vehicle; and therefore, claim petition could not have been dismissed.

5. It is accordingly prayed that the present appeal be allowed; and the impugned Award be set aside.



6. No other argument is raised on behalf of the appellants.
7. I have heard learned counsel for the appellants and perused the case file in great detail.
8. The case as pleaded by the appellants and as stated in para 2 of the present Grounds of Appeal reads as follows: -

“2. That brief facts of the case are that on 13.06.2016 at about 12:00 PM Fajar Khan (Since deceased) alongwith his nephew Mohd. Harish was going to Faridabad on Motorcycle and stopped at petrol pump near the village Baliawas for refill of petrol. Fajar Khan went to the other side of the road to attend the call of nature and while he was returning of offending vehicle driven by the Respondent No.1 in very rash and negligent manner hit Fajar Khan from back side. That the respondent No. 1 absconded alongwith the offending vehicle. Eyewitness Mohd. Harish could not note down the registration No. of the offending vehicle due to the state of the mental shock. Later on he enquired at the spot and came to know that the offending vehicle had registration No. HR-26-CQ-0991 as told by the local shopkeepers. On account of the said collision Fajar Khan fell on the road sustained fatal injuries including head injury. A crowd gathered and Fajar Khan was sent to Paras Hospital Gurugram for treatment. Subsequently he succumbed to the injuries. An amount of the Rs. 200000/- was spent on his treatment and last rites. FIR No. 168 dated 13.06.2016 U/s 279/304A IPC was lodged at P.S. DLF phase-1 Gurugram on the statement of Mohd. Harish. The accident took place due to rash and negligent driving of the Respondent No.1 of the vehicle owned by the respondent No.2 and insured by the respondent No.3. All the respondents are jointly and severally liable to satisfy the claim of the petitioners to tune of



Rs.10000000/-alongwith costs and interest at the rate of 18% per annum. The deceased was 47 years old and working as Assistant Sub Inspector in the Haryana Police having salary of Rs.46,144/- Per month. Hence the present appeal.”

9. However, perusal of the record shows that pursuant to the accident, a complaint dated 13.06.2016 Ex.R1 was made by Mohd. Harish, eyewitness to the accident. In the said complaint, no details of the offending vehicle in the form of registration No., colour or even the type of vehicle were mentioned. Subsequently, after almost 1 month, a supplementary statement dated 10.07.2016 was made by Mohd. Harish to the Investigating Officer PW6 to the effect that accident had been caused by the Maruti Swift Dzire which was being driven by respondent No.1. Mohd. Harish stated in the supplementary statement that the said information had been received by him from one Nand Kumar. However admittedly, claimants have failed to examine the said Nand Kumar. Even the Investigating Officer PW6 had failed to verify the correctness of the facts as stated in the supplementary statement from Nand Kumar. It was for these reasons that the learned Tribunal held that the identification of the offending vehicle had been done by the appellants on the basis of hearsay evidence in respect of which no proof had been produced by them.

10. It is also to be noted that the deceased was working as an Assistant Sub Inspector in Haryana Police and was 47 years old at the time of accident and was drawing salary of Rs.46,144/- p.m. As per the evidence of PW4, an official of the Police Department, no loss of salary has been

caused to the appellants as they are receiving the salary of the deceased to the tune of Rs.49,084/-p.m. and have also received Rs.7,39,319/- as exgratia payment.

11. At this stage, reference is made to recent judgment of Hon’ble Supreme Court in *Krishna v. Tek Chand, (SC) : Law Finder Doc ID # 2531576*, wherein it is held that the family of a deceased in a motor accident cannot seek “double benefits”. If the family has received benefits from the State Government on account of the death of the deceased, then such benefits are liable to be deducted from the compensation payable under the Act.

12. Learned counsel for the appellants is unable to controvert or dispute the above said facts, findings, and the legal position.

13. **Dismissed.**

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

25.08.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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