



FAO-617-2007 (O&M)

-1-

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

**CM-19942-CII-2024 IN/AND
FAO-617-2007 (O&M)
Date of Decision: 10.01.2025**

Harbans Lal

.....Appellant

Vs.

Vikas Kumar Goel and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Shilak Ram Hooda, Advocate,
for the appellant.

Mr. Vishal Aggarwal, Advocate
for respondent No.3-Insurance Company.

SUDEEPTI SHARMA J. (ORAL)**CM-19942-CII-2024**

The present application has been filed seeking restoration of the main appeal i.e. FAO-617-2007, which was dismissed for want of prosecution, vide order dated 20.09.2024 passed by this Court.

For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed and the main appeal i.e. FAO-617-2007, is ordered to be restored to its original number and is taken on Board today itself.

FAO-617-2007 (O&M)

1. The present appeal has been preferred against the award dated 01.11.2006 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'MV Act') by the learned Motor Accident



FAO-617-2007 (O&M)

-2-

Claims Tribunal, Panchkula (for short, 'the Tribunal'), whereby claim petition filed by the appellant/claimant, was dismissed.

2. The present appeal stems from an accident which took place in the year 2004, with considerable time having passed while the instant appeal remains pending final adjudication. The case file has been partially burnt due to fire incident which took place in this Court in the year 2011 resulting in the facts being rendered illegible and unreadable.

3. Upon enquiry by this court, the parties to the appeal stated that they do not possess a complete brief of the instant case and unable to assist the Court properly.

4. In the light of the facts and circumstances and considering partial loss/destruction of the case file as well as the absence of complete papers book, this Court is left with no option but to dispense with the requirement to set forth the facts of the case in this judgment.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

5. Learned counsel for the appellant/claimant contends that the learned Tribunal dismissed the claim petition only on the ground that there is a delay of 17 days in registration of the FIR.

6. *Per contra*, learned counsel for respondent No.3-Insurance Company, however, vehemently argues on the lines of the award dated 01.11.2006 and submits that the claim petition has rightly been dismissed by the learned Tribunal. Therefore, he prays for dismissal of the present appeal.

7. I have heard learned counsel for the parties and perused the whole record of this case.

ANALYSIS OF RECORD



8. A perusal of the record shows that the testimony of PW2, Harminder Singh, establishes that FIR No.153, dated 17.08.2004, was registered under Sections 279, 337, and 338 of the Indian Penal Code in connection with the accident in question. The accused/respondent No.1 is currently facing trial in the said case. The registration of the FIR reflects the police's prima facie finding that the accident, which resulted in injuries to the claimant, was caused due to the rash and negligent driving of the car bearing registration number HP-15-4771, driven by respondent No.1.

9. The evidence on record, including the testimony of PW1, Harbans Lal, further substantiates the claimant's assertion that the accident and resultant injuries were a direct consequence of respondent no. 1's negligent and reckless driving. It is pertinent to note that the accident occurred on 31.07.2004, whereas the FIR was lodged on 17.08.2004, reflecting a delay of approximately 17 days. However, it is a well-established principle of law that a delay in lodging an FIR cannot, by itself, be a ground for dismissing a claim petition, particularly, when the claimant provides a cogent and plausible explanation for the delay. In the present case, the claimant has specifically contended that despite repeated requests, the police initially failed to register the FIR. The FIR was eventually lodged only after the intervention of the Superintendent of Police, Panchkula. This explanation remains uncontroverted and finds support in the overall circumstances of the case. The tribunal's decision to dismiss the claim petition solely on the ground of delay in lodging the FIR is legally untenable and contrary to establish legal principles. It disregards the substantive



evidence on record and the explanation provided by the claimant, which appears both credible and reasonable. Hon'ble the Supreme Court in the case of ***Ravi Vs. Badrinarayan and others, 2011(4) SCC 693***, has conclusively held that a delay in lodging the FIR cannot be deemed fatal to motor claim proceedings, provided the claimant satisfactorily explain the delay with cogent and reasonable grounds. The relevant extracts of the same is reproduced as under:-

“20. It is well-settled that delay in lodging FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the Police Station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the Police Station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the Police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so; the contents of the FIR should also be scrutinised more carefully. If court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground.

21. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a



case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons.”

Therefore, the dismissal of the claim petition on this ground is unsustainable and liable to be set aside.

10. In light of the foregoing, the award dated 01.11.2006 is hereby set aside, and the appeal is allowed. Regarding the determination of compensation, given that the case pertains to a “burnt” category and was subsequently reconstructed, this Court has thoroughly examined the case, including the nature and extent of injuries sustained by the claimant. Upon careful consideration, this Court is of the considered opinion that, in the interests of justice and equity, it would be appropriate to award compensation in a lump sum amount of Rs.80,000/-.

11. So far as the interest part is concerned, as held by Hon’ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R.Valli and Others VS. Tamil Nadu State**



FAO-617-2007 (O&M)

-6-

Transport Corporation (2022) 5 Supreme Court Cases 107, the appellant-claimant is granted the interest @ 9% per annum on the amount of compensation from the date of filing of claim petition till the date of its realization.

12. The Insurance Company-respondent No.3 is directed to deposit the amount of compensation along with interest with the Tribunal within a period of two months from today. The Tribunal is further directed to disburse the amount of compensation along with interest in the account of the appellant/claimant. The appellant/claimant is directed to furnish his bank account details to the learned Tribunal.

13. Respondent No.3-Insurance Company is hereby directed to disburse the current scheduled fee to Mr. Vishal Aggarwal, Advocate, within a period of 20 days from the date of receipt of the copy of this judgment, in view of the order dated 18.07.2024 passed in FAO No.1682 of 2007, by this Court.

14. Disposed of accordingly.

15. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

10.01.2025

Virrendra

Whether speaking/non-speaking : Yes/No
Whether reportable : Yes/No