

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****129****FAO-3031-2025(O&M)****Date of decision: 14.05.2025****Nazira and others****...Appellant(s)****Vs.****Alim and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. U.M.Khan, 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, Nuh (hereinafter referred to as 'the Tribunal'), vide Award dated 18.02.2025 passed in MACP Case No.924/2022 dated 03.09.2022 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 4 claimants are the widow and three minor children of the deceased Khalil.

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 Khalil had died due to the injuries suffered by him in the motor vehicular accident that occurred on 24.03.2022 due to the alleged rash and negligent driving of Truck bearing registration No. HR-38V-8232 (for short "offending vehicle") being driven and owned by respondent No.1; and insured by respondent No.2. The



claimants were unable to prove that the alleged accident was caused by respondent No.1 by driving the alleged offending vehicle.

3. Learned counsel for the appellants *inter alia* submits that the learned Tribunal was in patent error in dismissing the claim petition of the appellants as it failed to appreciate that the deceased Khalil was the sole bread earner for the family. After his death, claimants had faced acute hardship and starvation. As such, claimants are claiming compensation of Rs.50 lacs along with interest. The claimants had proved their case by examining witness including claimant No.1/widow/PW4, who had filed her affidavit Ex.PW4/A. Claimants have also examined Jalaluddin as PW2 and Aslam Khan as PW-3 who had corroborated the case of the appellants. PW3 had categorically deposed that he had witnessed the accident which took place due to the rash and negligent driving of offending vehicle by respondent No.1.

4. On the other hand, the respondents did not examine any witness. However, respondent No.1 tendered copy of his driving license Ex.R-1, copy of Registration Certificate Ex.R-2, copy of insurance policy Ex.R-3, copy of fitness certificate Ex.R-4 and permit Ex.R-5 and respondent No.2 tendered copy of insurance policy Ex.RX. Thus, from the evidence on record it was established that the accident in question took place on account of rash and negligent driving of respondent No.1, but the Ld. MACT failed to appreciate the same and committed illegality by dismissing the claim petition, totally on irrelevant as well as erroneous grounds. The perusal of impugned Award reveals that the Ld. MACT has decided the



claim petition in the manner as the Ld. MACT is deciding the Criminal Trial and in the present case the FIR stands registered and the driver of the offending vehicle is facing Criminal Trial, so the findings of the Ld. MACT are not sustainable in the eyes of law. Moreover, there was no delay in lodging the FIR, from which it could be presumed that the same is result of manipulation and further the Post-Mortem report of deceased also reveals that the death took place on account of accident. In support, Learned counsel for the appellants relies upon judgment passed by a Coordinate Bench of this Court in “**Varinderjit Singh vs. Tajinder Singh and others**”, **Law Finder Doc Id # 132813**; wherein it is held that “*Tribunal cannot act as criminal court and demand proof of accident beyond any shadow of reasonable doubt -Under the Scheme incorporated under the Motor Vehicles Act relating to the enquiries by the Motor Accident Claims Tribunal, the proceedings are summary in nature and strict rules of evidence are not applicable - The job of the Tribunal is to ascertain as to whether the accident has been caused out of use of motor vehicle.*”

5. It is accordingly prayed that the present appeal be allowed; and impugned Award dated 18.02.2025 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. I find no merit in the submissions advanced on behalf of the appellants. At the very outset, it may first be pointed out that before the learned Tribunal, 2 claim petitions were filed in respect of the present



accident: the first being MACP No. 172/2022 dated 19.04.2022 titled as *"Anbari and others vs. Halim @ Alim and another"*; and the second/present claim petition being MACP No. 924/2022 dated 03.09.2022 titled as *"Smt. Nazira and others vs. Halim @ Alim and another"*. The first claim petition i.e. MACP No. 172/2022 was filed by Anbari/mother of the deceased Khalil, along with his three minor children. Whereas the second claim petition i.e. MACP No. 924/2022 was filed by Nazira/widow of the deceased Khalil along with same three minor children. Claimant Anbari in her claim petition No. 172/2022 has categorically pleaded that Nazira had left the house of deceased Khalil 2 years prior to his death on 24.03.2022; whereafter Nazira had contracted second marriage with Mushtak son of Sharif resident of village Neemkhera. Even one son was born to her from her second marriage. Anbari had further averred that claimants No. 2 to 4/3 minor children of the deceased Khalil, were residing with her and not with Nazira.

9. In both the claim petitions, it was averred that deceased Khalil was doing labour/Beldari work. On 24.03.2022, Khalil was going to Punhana for doing labour/Beldari work. When he reached near Reliance Petrol Pump, Hodal Road, Punhana, he met with roadside accident. Resultantly, Khalil received grievous and fatal injuries on his person and died at the spot. The claimants further stated that the accident in question took place due to rash and negligent driving of the offending vehicle by respondent No. 1. After the accident, the respondent No.1 fled from the spot along with offending vehicle. Postmortem examination on the dead body of the deceased was conducted in General Hospital, Mandikhera.



10. Upon notice in claim petition No. 172/2022 titled as *“Anbari and others vs. Halim @ alim and another”*, none had appeared on behalf of respondent No.1. As such, respondent No.1 was proceeded ex parte vide order dated 02.02.2023.

11. However, in the present claim petition No. 924/2022 titled as *“Nazira and others vs. Halim @ Alim and another”*, respondent No.1 had appeared and filed written statement controverting the claim of the appellants. Vide order dated 24.11.2023, both the claim petitions were consolidated.

12. As per the record, it was further the case of the claimants that the accident in question was witnessed by one Aslam PW-3, who was Manager of the Reliance Petrol Pump, Hodal Road, Punhana, near to which the accident in question had transpired. Brother of the deceased namely Jalaluddin PW-2 in his affidavit Ex.PW2/A has stated that information regarding the accident was given to him by said Aslam. Even in his cross-examination Jalaluddin has admitted that he was not present at the time of accident; that he had received information of the accident on his mobile phone from Aslam and then he had reached the hospital; and that he does not know Aslam personally.

13. However, in contradiction of the stand of Jalaluddin, Aslam PW-3 the eyewitness Aslam has stated in his cross-examination that he had not made any call to Jalaluddin PW-2 or any other family member of the deceased to inform about the accident. Thus, the statement of Jalaluddin that he came to know the registration No. of the offending



vehicle and the identity of the Truck driver from Aslam, is not corroborated by the statement of Aslam.

14. Further, FIR dated 25.03.2022 Ex.P5 was registered on the statement made by Jalaluddin PW-2. However, in the FIR Ex.P5, there is no mention of Aslam; and only registration No. of the offending vehicle is mentioned. Rather, it has been stated in the FIR that when he/Jalaluddin reached the hospital, he came to know that accident has been caused by driver of the offending vehicle. Yet, at no stage did Jalaluddin disclose the name of respondent No.1; or reveal as to who had disclosed the registration No. of the offending vehicle. As per the investigation report on the basis of the complaint made by Jalaluddin, notice was sent to owner of the offending vehicle, pursuant to which respondent No.1 had appeared and had admitted that he was driving the Truck. However, the alleged eyewitness Aslam PW-3 was neither examined by the Investigating Officer; nor any employee of the Petrol Pump was examined by the IO.

15. Aslam has further deposed in his affidavit Ex.PW3/A that he is the Manager of Reliance Petrol Pump, Punhana; on 24.03.2022 he was present at the Petrol Pump when deceased Khalil was hit by alleged offending vehicle which was being driven by respondent No.1 in a rash and negligent manner. Aslam had further deposed that respondent No.1 had fled from the spot however, he/Aslam had noted down the registration No. of the offending vehicle. Aslam in his cross-examination has also admitted that he has made no statement regarding the accident



or reported the matter to the police. Aslam has further admitted that he has no identity proof with him; that he does not know the name and address of the deceased. From the above, it is clear that there are glaring loopholes in the story put forth by the claimants.

16. The findings of the Id. Tribunal are contained in para 22 of the Award dated 18.02.2025, which read as under: -

*“PW-2 Jalaluddin lodged the FIR on the next day of accident and stated that he had come to know that accident was caused by unknown driver of the alleged offending vehicle No. HR-38V-8232, but he did not disclose the name of person, who told him about the registration number of the offending vehicle. The Investigating Officer filed challan merely on the basis of complaint made by PW-2 Jalaluddin and the alleged disclosure statement of respondent No.1. The petitioners have not examined investigating officers of criminal case. It is settled law that mere filing of challan, framing of charge or even judgment of conviction passed by the criminal court, are not binding on the claim Tribunal. It has been held by Hon'ble Punjab & Haryana High Court in case of **Ram Karan Vs. Zile Singh, 2001(3) RCR (Civil) 582 and Anguri Devi Vs. Lakhvinder. 2017(3) PLR, 86**, that mere an FIR, framing of charge and even judgment of conviction or acquittal of criminal Court is not binding upon the Tribunal. It was further held that the onus of proving negligence is always upon the claimants and they have to discharge it before the Tribunal.”*

17. Reliance of learned counsel for the appellants upon the above said judgment in **Varinderjit Singh’ case (supra)**, is misplaced as no doubt claim petitions under the Act are to be decided upon the



preponderance of probabilities and not like a criminal trial. However, the story put forth by the claimants, has to possess some semblance of logic, rationale and credibility; and cannot totally defy logic and coherence and has to be at the very least probable. The version of events as put forth by the claimants in the claim petition cannot be blindly accepted ipso facto.

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

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

14.05.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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