

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****208****FAO-3876-2009(O&M)****Date of decision: 03.05.2025****Bhawna and others****...Appellant(s)****Vs.****Rajinder Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- None for the appellant.

Mr. Rampal Kohli, Advocate for
Mr. Tajender Joshi, Advocate
for respondent No.3-Insurance Co.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants against the dismissal of their claim petition No. 31 dated 03.03.2008 filed under Sections 140/166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), by the MACT, Panipat (hereinafter referred to as 'the Tribunal'), vide Award dated 21.05.2009. The 3 claimants are the widow, mother, and minor son of the deceased Sandeep.

2. Order sheets show that except on the last date of hearing i.e. 16.01.2025, on several dates prior thereto, the matter was adjourned either at request of or due to non-appearance of the counsel for the appellants. Even today, none has appeared on behalf of the appellants. Accordingly, the appeal being of the year 2009, the same is being heard and decided in the absence of learned counsel for the appellants.



3. Brief facts of the case are that the learned Tribunal on the basis of the pleadings and evidence adduced before it, gave a finding that the claimants had failed to prove that the accident that occurred on 24.01.2008, was due to the rash and negligent driving of Tata Indica Car bearing registration No.HR11B-1199 (for short 'the offending vehicle').

4. Learned counsel for respondent No. 3/Insurance Company submits that the impugned Award suffers from no error as in the present case, the date of accident was 24.01.2008, the deceased had expired on 25.01.2008; whereas the FIR was registered on 08.02.2008 on the basis of the statement made by Charanjit, brother-in-law of the deceased. However, no explanation has been given by the complainant for the delay in registration of the FIR. It is accordingly prayed that the present appeal be dismissed.

5. I have heard learned counsel for respondent No.3 and perused the case file in great detail.

6. I find merit in the submissions advanced on behalf of respondent No.3. Perusal of the record of the case shows that the accident in question is stated to have taken place on 24.01.2008; whereupon the deceased Sandeep expired on 25.01.2008. Thereafter FIR Ex.PW3/D was registered on the statement of brother-in-law of the deceased, namely, Charanjit PW4 who has also claimed to be a witness of the accident. PW4 has stated in his cross-examination that after the accident, police officials had reached Civil Hospital, Panipat at about 4 p.m. but police had not recorded his statement or statement of anyone else in the Civil Hospital,



Panipat. However, as per the police version, the police party had never gone to Civil Hospital, Panipat and had never met either the complainant Charanjit nor injured nor any family members of injured/Sandeep (now deceased). Even if version of Charanjit is to be believed then there is no explanation as to why he did not get his statement recorded with police at Civil Hospital Panipat especially if he was eyewitness to the accident.

7. There is even no explanation as to why Charanjit got registered the FIR after delay of 10-12 days on 08.02.2008. It has been stated by Charanjit in his cross-examination that delay occurred as he was with deceased Sandeep when he was shifted from Civil Hospital, Panipat to Madan Hospital and then to Fortis Hospital Noida. That may be so, however, admittedly, Sandeep had died on 25.01.2008. Yet, no FIR was registered by Charanjit or any of the other concerned persons including the family members/claimants during this time.

8. It has also been stated by Charanjit in his evidence, that the accident was also witnessed by Shekhar; as Charanjit alongwith Shekhar was going on his motorcycle from Panipat to Samalkha when the accident had taken place. If that was so, then why was FIR not registered by Shekhar immediately after the occurrence. Even if Charanjit was with the injured/deceased Sandeep on 24.01.2008 and 25.01.2008 then Shekhar being eyewitness could also have got FIR registered. Further, Shekhar has not even been examined before the learned Tribunal nor was his statement recorded by the police. Thus, presence of Charanjit and Shekhar on the scene of accident becomes doubtful. Therefore, from the above facts, it



goes to show that involvement of the offending vehicle in the accident in question is not proved. The claim petition has accordingly been rightly dismissed.

- 9. In view of the above, present appeal is **dismissed**.
- 10. Pending application(s) if any also stand(s) disposed of.

03.05.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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