

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****216****FAO-4179-2009 (O&M)
Date of decision: 10.02.2025****Gurmail Singh****...Appellant(s)****Vs.****Ajaib Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Tanvir, Advocate for
Mr. Bhag Singh, Advocate for the appellant.

Mr. Hrmeet Singh, Advocate for
Mr. Vikram, Advocate for respondents No.1 and 2.

NIDHI GUPTA, J.

The present appeal has been filed by the claimant against the dismissal of his claim petition No. 50 dated 16.07.2007 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act") by the learned Motor Accident Claims Tribunal, Ambala (hereinafter referred to as "the learned Tribunal") vide Award dated 06.05.2009. The appellant/claimant is the elder brother of the deceased Randhir Singh.

2. It was the case of the appellant before the learned Tribunal that on 29.04.2007, the deceased was a pillion rider of motorcycle driven by his brother-in-law Hazura Singh. When they were returning after attending the Bhog ceremony at village Basian (Rajpura), they



stopped their motor-cycle to take juice at Municipal Committee road, Banur. In the meantime, a truck bearing registration No. PB-10-E-8987 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3 came rashly and negligently and struck against Randhir Singh and crushed him to death at the spot. It was further pleaded that the deceased Randhir Singh was bachelor at the time of accident and the claimant was dependent upon him.

3. Ld. counsel for the appellant submits that the claim petition of the appellant has been wrong dismissed as the learned Tribunal failed to appreciate that FIR (Ex.P7) was registered against respondents No.1 and 2 in respect of the accident in question. The impugned Award suffers from various other illegalities and is liable to be set aside.

4. On the other hand, Id. counsel for respondents No.1 and 2 submit that the impugned Award suffers from no infirmity. The appellant has tried to mislead this Court and has not brought the complete facts before this Court and, accordingly, prays for dismissal of the appeal.

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

6. I have heard learned counsel for the parties.

7. It is the contention of the appellant that the claim petition of the appellant has been wrongly dismissed by the learned Tribunal as the FIR (Ex.P7) in respect of the accident in question was duly registered. However, admittedly, in his evidence before the learned Tribunal, the appellant had failed to examine even the author of the FIR. Even



Investigating Officer had not been examined by the appellant to prove the factum of alleged accident. No other eyewitness was examined by the appellant before the learned Tribunal. Only the appellant had appeared before the Tribunal as PW1 and had admitted in his deposition that he was not present at the time of accident. The appellant had admitted during his cross-examination that *“no accident took place in my presence”*.

8. In dismissing the claim petition of the appellant, the learned Tribunal also took into account the fact that the appellant was not the sole legal representative of the deceased; and that respondents No. 4 and 5 herein being the sisters of the deceased, would also be entitled to compensation under the Hindu Succession Act. Admittedly, a separate claim petition was filed by respondents No. 4 and 5 before the learned MACT, Patiala (Ex.R1). In this regard, the appellant as PW1 has admitted in his cross-examination that ***“my two elder sisters have expired and the children of my both the sisters are alive and two children of younger one. I have not made them party in the present petition.”*** As such, the learned Tribunal held that the present claim petition of the appellant was liable to be dismissed for non-impleadment of necessary parties; as also for concealment of factum of filing of another claim petition regarding the same accident, which was filed prior to the present claim petition before the learned MACT, Patiala.

9. In view of the above facts, I find no error in the reasoning of the learned MACT. Hence, the present appeal is **dismissed**.



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

10.02.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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