



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
223

FAO-4123-2011(O&M)
Date of decision: 09.07.2025

Amarjit Kaur

...Appellant(s)

Vs.

Sukhwinder Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vipin Mahajan, Advocate
for the appellant.

Mr. Ashwini Talwar, Advocate
Ms. Pratiksha Sharma, Advocate
Mr. Nikhil Sehrawat, Advocate
for respondent No.3/Insurance Company.

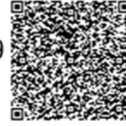
NIDHI GUPTA, J.
CM-15524-CII-2011

This is an application under Section 5 of Limitation Act for
condonation of delay of 28 days in filing the appeal.

After going through the contents of the application, which
is supported by affidavit of the applicant, the same is allowed subject to all
just exceptions and delay of 28 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimant against the
Award dated 08.12.2010 passed by the Motor Accident Claims Tribunal,
Gurdaspur (hereinafter referred to as "the Tribunal") whereby the Claim



Petition No.143 dated 01.06.2007 filed under Section 166 of the Motor Vehicles Act (hereinafter referred to as “the Act”), has been dismissed. Appellant is the widow of deceased Tarlok Singh.

2. Learned Tribunal on the basis of pleadings and oral & documentary evidence adduced before it concluded that the appellant had been unable to prove that the deceased Tarlok Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 11.03.2007 due to the rash and negligent driving of motorcycle bearing registration No.PB-06-D-6384 (hereinafter referred to as “the offending vehicle”) by respondent No.1. The offending vehicle was owned by respondent No.2 and insured by respondent No.3.

3. Learned counsel for the appellant inter alia submits that the learned Tribunal was in patent error in dismissing the Claim Petition filed by the appellant as it failed to appreciate that after the death of her husband, the appellant was in great mental trauma and agony. It was for this reason that there was some delay in registration of the FIR (Ex.C2). It is submitted that the appellant had examined herself as CW1 and had proved the FIR. The Death Certificate of the deceased was also duly proved by CW3 and CW4. In view of these facts, learned Tribunal was in error in dismissing the Claim Petition only on the ground that there was delay of 1 month and 12 days in registration of the FIR. It is submitted that mere delay in registration of FIR is



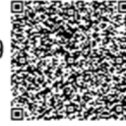
not fatal for the case. It is accordingly prayed that the present appeal be allowed, and the impugned Award be set aside.

4. Learned counsel for respondent No.3/Insurance Company opposes the prayer made on behalf of the appellant and submits that the impugned Award suffers from no error. It is pointed out that the appellant had even failed to produce the Post-Mortem Report of the deceased. Moreover, there was unexplained delay of 42 days in registration of the FIR. Even the Claim Petition is misconceived as on 11.03.2007, motorcycle of respondent No.1 had slipped on account of rainwater on the road and respondent No.1 had suffered injuries for which he was admitted in hospital. As such, there was no rash and negligent driving by respondent No.1. Learned counsel accordingly prays for dismissal of the present appeal.

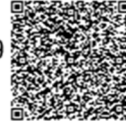
5. No other argument is made on behalf of the appellant.

6. I have heard learned counsel for the appellant and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellant.

7. Briefly stated the facts as pleaded by the appellant/claimant in the Claim Petition are that on 11.03.2007 at about 6.30 pm deceased Tarlok Singh alongwith his wife i.e. Claimant were coming from village Slemipur after purchasing a buffalo. They were coming on a bicycle and on foot. Wife of the deceased was a little behind the deceased. When they reached near turn of village Peeran Bagh, Respondent No.1 came from



backside, driving his motorcycle at a very high speed, rashly, negligently and without blowing horn, and struck the same in the deceased as a result of which the deceased fell on the road, suffered multiple grievous injuries on head and other parts of body and died at the spot. The claimant was in grief of death of her husband, and even no one advised her to get postmortem conducted from the Civil Hospital of her deceased husband. After that she approached police for registration of criminal case and ultimately the criminal case under Sections 304-A/279/427 IPC was registered vide FIR No.70 dated 23.04.2007 against Respondent No.1. However, inadvertently the number of motorcycle was mentioned as PB-6B-6384 whereas the correct number was PB-06D-6384 which was corrected by the police in supplementary statement of the claimant. The accident was witnessed by Harjinder Singh son of Santokh Singh r/o Village Maur, Tehsil Gurdaspur. Respondent No. 1 approached the claimant and Sarpanch of Village Khokhar in the presence of Raghbir Singh son of Natha Singh of Village Khokhar and requested her not to file any case or complaint against him and he agreed to pay compensation but due to party faction in village, the respondent No. 1 subsequently refused to pay any compensation to the claimant. The accident took place due to sole negligence of respondent No. 1. Claimant further submitted that deceased Tarlok Singh was an agriculturist and running a big dairy farm. Besides this, the deceased was running business of purchasing and selling of cows, buffaloes etc. He was having very good health. The



deceased was dreaming to expand his business at a large scale, but due to untimely death, the claimant who was fully dependent upon the deceased, suffered a lot. The claimant was fully dependent upon the income of her husband. Claimant prayed that her claim petition be allowed.

8. Notwithstanding the above assertions made by the appellant/claimant, it is admitted fact on record that the accident in question had occurred on 11.03.2007; whereas FIR has been registered on 23.04.2007 i.e. After a delay of 42 days. No explanation whatsoever, let alone a cogent explanation has been forthcoming from the appellant to explain this delay. The delay in registration of the FIR remains inexplicable especially in view of the fact that the accident was allegedly witnessed by CW2 Harjinder Singh. Thus, there is no reason as to why eyewitness Harjinder Singh (CW2) did not record the FIR immediately after the accident. It is also pertinent that CW2 did not turn up for cross-examination. As such, any evidence led by him could not be read under law.

9. Further, it is the admitted case of the appellant that the number of the offending motorcycle was incorrectly mentioned in the FIR as PB-6B-6384 whereas the number was PB-06D-6384 which was corrected by the police in supplementary statement of the claimant. This also casts shadow of doubt on the story put forth by the claimant.

10. Furthermore, Post-Mortem Report of the deceased was not produced by the appellant. Even no doctor was examined to prove the



cause of death. No documentary evidence was adduced to prove the alleged cause of death. In fact, the appellant has admitted in her evidence that she *“forgot to get conducted postmortem examination of the dead body”*. In contradiction of the above statement of the appellant, CW3 Raghbir Singh has admitted in his cross-examination that he had told the appellant to get the post-mortem conducted.

11. Thus, in the absence of any proof regarding cause of death; and in view of the inordinate and unexplained delay of 42 days in registration of the FIR, Claim Petition was rightly dismissed. Clearly, claimant failed to prove that the deceased Tarlok Singh had died on 11.03.2007 at about 6:30 pm on account of rash and negligence driving of the offending vehicle by respondent No.1.

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

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

09.07.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No