

2025:PHHC:043310



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

FAO-1231-2012 (O&M)

Date of Decision: March 28, 2025

Smt.Snehlata and others

...Appellants

VERSUS

Mahabir Parshad and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Devender Arya and Ms.Anjali, Advocates
for the appellants.

Mr.Sandeep Suri and Mr.Karan Gaba, Advocates
for respondent No.3.

ARCHANA PURI, J.

The appellants-claimants have filed the present appeal to assail the judgment of dismissal of the claim petition by learned Motor Accident Claims Tribunal, filed to seek compensation, on account of death of Vikram Singh, in a motor vehicular accident.

The facts germane, to be noticed, are as follows:-

That, on 16.04.2010, Vikram Singh was going towards village Gahri on his motorcycle bearing registration No.HR-43A-1503, at a moderate speed, while observing the traffic rules. At about 5.30 p.m., when he reached near Shyam Vatika, in the area of village Kanina, in the meantime, a maruti car bearing registration No.HR-34C-7979, driven by respondent No.1-Mahabir Parshad, in a rash and negligent manner and at high speed,



came and struck against the motorcycle of Vikram Singh, as a result whereof, he fell down along with the motorcycle and sustained injuries, which proved fatal and he died on 27.04.2010. Bijender Singh s/o Mahender Singh had witnessed the accident. The accident had taken place, on account of rash and negligent driving of the car in question by respondent No.1- Mahabir Parshad. FIR No.90 dated 08.05.2010 under Sections 279, 337 and 304-A IPC was registered against respondent No.1.

Also, it was asserted that deceased Vikram Singh was 28 years old, at the relevant time and he was employed as Clerk in Navodaya Academy, Alampur, Bhiwadi (Rajasthan) and used to draw salary of Rs.10,000/- per month and was also doing agricultural work and earning Rs.15,000/- per month. The claimants, being legal heirs and dependent upon the deceased, had filed the claim petition for seeking compensation of Rs.30,00,000/-.

Upon notice, respondents made appearance and filed the respective replies. Respondents No.1 and 2 i.e. driver and owner of the car in question, in their reply, had denied about taking place of the accident and alleged that false case has been registered, in collusion with the police to extract compensation. All other averments, with regard to age, income and occupation of deceased were also denied.

Respondent No.3-insurance company, in its reply, had also taken various objections, vis-a-vis, cause of action, locus standi etc. and violation of terms and conditions of the insurance policy. Even on merits, the factum of accident, was denied. All other averments were also denied.

From the pleadings of the parties, following issues were framed:-



- 1) Whether motor vehicle accident which took place on 16.4.2010 at about 5.30 P.M. in the area of Shyam Vatika Kanina under Police Station Kanina an outcome of rash and negligent driving of vehicle bearing registration No.HR34C/7979 by respondent No.1? OPP*
- 2) If issue No.1 is proved, whether Vikram Singh died in the above accident? OPP*
- 3) If issues no.1 and 2 proved, whether petitioners are entitled to get compensation, if so, in what amount and from whom? OPP*
- 4) Whether respondent No.1 was not having any licence to ply the vehicle in question in area of accidental place? OPR*
- 5) Relief.*

To substantiate their claim, Snehlata, one of the claimants, stepped into witness box as PW-2 and further also examined Kulbhushan, Addl. Ahlmad in the Court of Judicial Magistrate 1st Class, Mohindergarh as PW-1. Eye witness to the accident, namely Bijender Singh stepped into witness box as PW-3. Further also, the claimants examined Amarjeet, Accountant of Navodaya Academy, Alampur, Bhiwadi, District Alwar, as PW-4 and Sheotaj Singh, Asstt. Ahlmad was examined as PW-5 and documentary evidence was also adduced.

On the other hand, respondents No.1 and 2, tendered into evidence, certain documents and closed their evidence. Even, respondent No.3-insurance company, did not lead any evidence.

On appraisal of the evidence, brought on record, more particularly, while taking into consideration, there being delay in lodging of the FIR Ex.PW1/A and disbelieving the testimony of PW-3 Bijender and also concluding about deceased to be under the influence of liquor, at the relevant time, learned Tribunal had concluded that negligence, on the part of



driver of the offending car, as such, was not established and accordingly, decided issue No.1 against the claimants. Consequently, even issues No.2 to 5 were decided against the claimants and thus, the claim petition was dismissed vide judgment dated 01.12.2011.

Being aggrieved, the appellants-claimants have filed the present appeal.

Upon notice, respondent No.3 made appearance through counsel.

Learned counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the appellants-claimants that learned Tribunal had not appraised the evidence in correct perspective. The testimony of PW-3 Bijender, an eye witness, has not been appropriately appreciated. In fact, learned counsel also made submission that deceased, being under the influence of liquor, at the relevant time, also does not stand established. In the light of the same, it is submitted that from the testimony of Bijender, it stands amply established about rashness and negligence, on the part of respondent No.1, while driving the car bearing registration No.HR-34C-7979, more particularly, when respondent No.1-Mahabir Parshad, who had faced trial in the criminal case, qua the accident in question, had not stepped into witness box.

On the contrary, learned counsel for respondent No.3 submits that there is definitely delay in registration of the FIR, which in itself, raised doubt about the truthfulness of the version of manner of taking place of the accident and the same does not stand explained. Even, an attempt was made by eye witness to suppress his relationship with deceased Vikram Singh,



which also gains weight, in the light of there being delay, in initiation of action, qua the accident in question.

Very true, as pointed out by learned counsel for respondent No3, there is delay in lodging of the FIR. The accident had taken place on 16.04.2010 and the FIR was got registered on 08.05.2010. However, the delay, ipso facto, as such, cannot be singularly considered to doubt the case of the claimants. Various other circumstances, coming forth, from the evidence, brought on record, ought to be taken into consideration. From the evidence, brought on record, it stands established that victim had sustained extensive injuries on 16.04.2010. PW-2 Snehlata, widow of deceased, has categorically deposed in her affidavit that Vikram Singh was taken to CHC, Kanina, where he was provided first-aid and thereafter, on account of his serious condition, he was referred to other hospital and he was taken to SMS Hospital, Jaipur, where he remained admitted w.e.f. 16.04.2010 to 27.04.2010 and during the course of treatment, he succumbed to injuries on 27.04.2010. As such, the reason for delay, is substantially explained.

Though, Vikram Singh had died on 27.04.2010, but however, still then it is submitted that there was delay in registration of the FIR. One cannot lose sight of the fact that Vikram Singh had died in Jaipur. As deposed by his widow, his last rites were performed at his village, which is in Haryana and it is quite obvious, this much time, must have consumed in performance of the rites and rituals, relating to the death of Vikram Singh.

FIR was got registered by Bijender, who is son of maternal uncle of the deceased. Obviously, not only the widow and children of the deceased, but also, other members of the family, must have remained

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occupied, while taking care of the deceased, during the period of his treatment at Jaipur and considering the same, there are valid reasons, coming forth, for the delay in registration of the FIR. Knowing the Indian conditions, as they are, we cannot expect from a common man to first rush to the police station, immediately after an accident. However, the human nature and family responsibility, occupying the mind of kith and kin, to such an extent, that they give more importance to ensure the treatment is extended to the victim, rather than, rushing to the police station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the police.

Thus, this delay in lodging the FIR, cannot be a ground to deny justice to the victim. In case of delay being there, the Courts only need to be cautious enough to scrutinize the evidence carefully and while doing so, various circumstances, coming forth, such like the condition of the victim, his duration of hospitalization and also about the person coming forth to get registered the FIR, being related to the deceased/victim or not. The only caution required is FIR should not be an outcome of fabrication or engineered to implicate innocent person and if not so, the claim petition, ought not to be dismissed, solely on the ground of delay.

As observed aforesaid, on account of fight between the survival and death of deceased Vikram Singh, during the course of his treatment, was sufficient reason for the family, not having got recorded the FIR with promptitude. No doubt, as pointed out, information was given to the SHO, Police Post, Kanina by the concerned doctor on 16.04.2010, copy whereof is Ex.PW5/A, but however, it is pertinent to mention that in CHC, Kanina, the

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deceased was only given first-aid and thereafter, he was shifted to SMS Jaipur, where he remained admitted from 16.04.2010 to 27.04.2010. This in itself, stands amply explained, as to why no further action was not taken by the police authorities, after information having given to them on 16.04.2010. Thus, delay, as such, has been amply explained and therefore, it will not prove fatal.

So far as, testimony of PW-3 Bijender is concerned, it should be noted that said Bijender, in his affidavit Ex.PW3/A, has categorically deposed, in consonance with the pleaded case, thereby, imputing rashness and negligence, on the part of respondent No.1, while driving the car and striking of the car, in the motorcycle of Vikram Singh, as a result whereof, he had sustained injuries, which proved fatal. Nothing as such, has come forth, in his cross-examination, to disbelieve his version. Learned Tribunal had picked up one line, wherein the said witness, in cross-examination had stated that he has no relationship with Vikram Singh deceased. But however, this line, is not to be considered singularly. Suffice to make mention to the FIR and the report under Section 173 Cr.P.C., coming on record, which is PW1/A, which reveals that while making statement to the police, the said witness Bijender had categorically stated that Vikram Singh is son of his maternal uncle. He had not made an attempt to suppress his relationship, at the time of registration of the FIR.

In the given circumstances, it cannot be stated that there was an attempt made to suppress the relationship, while reading the single line, more particularly, when a suggestion was also given to this witness that accident had happened, due to rash and negligent driving of Vikram Singh,



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which was categorically denied.

Giving of this suggestion, itself reveals that respondents do not dispute about factum of taking place of the accident, though they dispute about the manner of taking place of the accident. This version, in itself is contrary to the pleaded case of the respondents, more particularly, when respondent No.1 has not stepped into witness box and was also facing trial, as evident from the documents of the criminal case, proved through PW-1 Kulbhushan.

Besides the aforesaid, observation made by learned Tribunal about consumption of liquor by deceased, while driving, is palpably wrong. It has been observed by learned Tribunal that eye witness completely failed to bring out that deceased had consumed liquor at the time of accident. Probably there seems to be the word '**not**' having given amiss, while recording this sentence. Even though, further observation has been made that perusal of the FIR shows that deceased had consumed liquor, when he was brought to the hospital, but however, this observation is also contrary to the recitals of the MLR, which is Ex.PX. There is no mention made about the consumption of liquor by deceased, at the time of his medical examination and therefore, this observation also, nullifies the finding so recorded by learned Tribunal.

Considering the aforesaid evidence, the findings on issue No.1, stand reversed and it stands amply established that the accident had taken place, due to rash and negligent driving of car bearing registration No.HR-34C-7979 by respondent No.1 and the same caused extensive injuries to Vikram Singh, which proved fatal and he died on 27.04.2010.



Now, let us consider the compensation to be awarded to the appellants-claimants. It is the pleaded case of the claimants that deceased was 28 years old and he was working as Upper Division Clerk and having salary of Rs.10,000/- per month and also earning Rs.15,000/- from the agricultural pursuit.

However, so far as, the indulgence of the deceased in agricultural work is concerned, nothing as such, has come on record and the same does not stand established. However, it is pleaded case that the deceased was working as UDC in Navodaya Academy, Alampur, District Alwar and Snehlata, widow of the deceased, in her affidavit Ex.PW2/A, has categorically stated about vocation followed by the deceased. Furthermore, claimant also examined PW-4 Amarjeet, Accountant, Navodaya Academy, Alampur, Bhiwadi, District Alwar. In his affidavit Ex.PW4/A, he has deposed about deceased to be working as UDC and that he was drawing Rs.10,000/- as salary. Even though, in the affidavit, it is mentioned that the salary certificate is Ex.PW4/B, but however, document coming forth in evidence, is not the salary certificate and in fact, it is the staff attendance register, which is Ex.PW4/B and it contains the recitals of attendance of Vikram Singh UDC/CLK. Besides the same, nothing as such, is coming on record, about the extent of salary received by Vikram Singh. In fact, PW-4 while facing cross-examination, had also stated that he had not brought the salary record.

In the light of such evidence, when the salary record has not been proved, it does not stand established that deceased was getting Rs.10,000/- per month. But anyhow, Vikram Singh was working as UDC. Considering



the wages, prevalent at the relevant time and also making some guess work, very close to proximate reality, in the fitness of circumstances, the earnings of the deceased in modest estimate, are taken as Rs.6000/- per month.

Aforesaid academy was not a government institution and also it does not stand established that in fact, deceased having a permanent job. Considering the same and also taking into consideration the age of the deceased to be 28 years, addition of 40%, ought to be made, on the count of 'future prospects', which comes to be Rs.2400/-. After making such addition, the earnings of the deceased, comes to be Rs.8400/- per month.

Considering the number of dependents, the deduction on the count of 'personal expenses' ought to be made to the extent of 1/4th, which comes to be Rs.2100/- and the residue earnings comes to be Rs.6300/-, annual whereof is **Rs.75,600/-**. Considering the age of the deceased as observed aforesaid, the appropriate multiplier to be applied is '17'. Thus, by applying the same, the loss of dependency comes to be **Rs.75,600x17=Rs.12,85,200/-**.

Besides the aforesaid, on the count of '**loss of consortium**', all the appellants-claimants, are entitled to prevalent amount of Rs.48,400/- each i.e. $\text{Rs.48400} \times 6 = \text{Rs.2,90,400/-}$ and they are also entitled to compensation, on the counts of '**loss of estate**' as well as '**funeral expenses**', which is **Rs.18,150/-**, on each count.

It is pertinent to mention that soon after the accident and before his death, Vikram Singh remained admitted in the hospital for a period of 11 days. Various bills have been proved on record of the expenditure incurred on his treatment, which are in the name of Vikram Singh and co-relate to the period of his treatment and therefore, they are taken into consideration. The



total of the said bills Ex.P1 to Ex.P48 is Rs.29,185/-, which is rounded off as **Rs.30,000/-**.

Considering the same, the compensation payable to appellants-claimants, on account of death of Vikram Singh, is re-computed, as herein given:-

Loss of dependency	:	Rs.12,85,200/-
Loss of consortium	:	Rs.2,90,400/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Medical expenditure	:	Rs.30,000/-
Total	:	Rs.16,41,900/-

As such, the appellants-claimants are held entitled to the compensation to the extent of **Rs.16,41,900/-**. The amount of compensation shall be paid by respondents No.1 to 3, jointly and severally. On the amount of the compensation, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the claim petition, till realization of the amount of compensation. Out of the compensation, as worked upon aforesaid, appellant-claimant No.1 is held entitled to Rs.7,41,900/-, whereas, appellants-claimants No.2 to 4 are held entitled to Rs.2,00,000/- each and appellants-claimants No.5 and 6 are held entitled to Rs.1,50,000/- each.

With the above observations, the present appeal stands allowed.

March 28, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No