



FAO-1422-2012 (O&M)

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

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FAO-1422-2012 (O&M)
Date of decision : 04.02.2025

MAHI PAL AND OTHERS

... APPELLANTS

VERSUS

SANDEEP KUMAR AND OTHERS

... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Wazir Singh, Advocate
for the appellant.

Mr. Amrainder Singh, Advocate
for respondent No.2.

Mr. D.P. Gupta, Advocate
for respondent No.3.

Pankaj Jain, J. (Oral)

1. The present appeal is at the behest of the claimants aggrieved of the judgment passed by the Motor Accident Claims Tribunal, Karnal dated 11.01.2012 whereby the claim petition filed by the claimants seeking compensation on account of death of Ashok Kumar in a motor vehicular accident, stands dismissed.

2. The claimants filed claim petition under Section 166 of the Motor Vehicles Act, 1988. As per the case of the claimants, claimant No.1, who was riding motorcycle driven by the deceased, when they were struck by a maruti car bearing registration No.PB-39-A-0605. The deceased Ashok Kumar sustained multiple injuries and later succumbed to death. FIR No.347 dated



29.06.2009 came into being for offence punishable under Sections 279 and 304-A IPC on the statement made by Mahi Pal. Respondents contested the claim petition denying the factum of accident. On the basis of the pleadings, the Tribunal framed the following issues:-

- “i) Whether the accident dated 28.6.2009 causing death of Ashok Kumar, occurred on account of rash and negligent driving of vehicle bearing No.PB 39A-0605 by the respondent No.1? OPP.*
- ii) Whether the claimants are entitled to any compensation, if so, to what amount and from whom? OPP.*
- iii) Whether the respondent No.1 was not holding a valid and effective driving license at the time of accident and the vehicle was being driven in contravention of the terms and conditions of the insurance policy? OPR*
- iv) Relief.”*

3. In order to prove the accident, claimants examined Naresh Kumar son of Jai Singh as PW-3. As per his testimony, he claimed to be eye witness to the accident. His testimony has been taken note of by the Tribunal in Para 13 of the judgment, which reads as under:-

“13. The claimants have also examined. Naresh Kumar son of Jai Singh as PW3 who has deposed that on 28.6.2009 he was going to Karnal for his personal work on his motor cycle and a Maruti car was going ahead of him, which was being driven by a young boy and from Karnal side, a motor cycle rider which was going to Manglora side. The car driver while driving his car in high speed, rash and negligent manner by going on wrong side dashed his car in the motor cycle near Bharat petrol pump and ran away towards Karnal. He further stated that he followed the aforesaid car and the said car stopped at the G.T. Road,



Meerut Chowk, Karnal due to red light and he noted down the number of the said car which was as PB39A-0605 and thereafter, the name of the car driver was also revealed as Sandeep Kumar. It is revealed his cross examination that he had told the number of the car on the next day when he went to the house of the deceased. Police recorded his statement on 4.7.2009. Police lodged the FIR on his statement after many days. Again said that the FIR was not lodged on his statement. He has denied that he was not present at the time of the accident took place with the aforesaid vehicle.”

4. However, while returning finding on issue No.1, the Tribunal has not even considered testimony of Naresh Kumar (PW-3). Whole of the finding is based on surmises and conjecture.

5. Learned counsel for respondent No.3 is not in a position to dispute that while returning finding on issue No.1, the testimony of eye witness on record has not even been considered by the Tribunal.

6. In view thereof, this Court finds that the findings recorded by the Tribunal cannot be sustained and deserves to be set aside. In view of the above, the matter is remanded back to the Tribunal to decide the claim petition afresh after considering whole of the evidence on record without being prejudice by any observation made by the Tribunal in the impugned judgment or by this Court.

7. Keeping in view that the accident which led to death of Ashok Kumar is dated 28.06.2009 and the family in destitute is awaiting the compensation for the last more than 16 years, this Court is sanguine that the Tribunal shall decided the claim petition expeditiously and preferably within the calendar year of 2025.



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8. Parties are directed to appear before the Tribunal on 24.02.2025.
9. Disposed off.

(PANKAJ JAIN)
JUDGE

February 04, 2025
A.Kaundal

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