



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

(i) FAO-6124-2011 (O&M)

Sushil Kumar @ Sunil

...Appellant

VERSUS

Karamjit Singh and others

...Respondents

(ii) FAO-6125-2011 (O&M)

Sunita Devi and others

...Appellants

VERSUS

Karamjit Singh and others

...Respondents

Date of Decision: September 10, 2025

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Raj Kapoor Malik, Advocate
 for the appellants.

Respondent No.1 proceeded against ex-parte.

Mr.Parveen Moudgil, Advocate
for respondent No.2.

Mr.P.H.S.Pannu, Advocate
for respondent No.3.

ARCHANA PURI, J.

These are two appeals filed by the appellants-claimants,
thereby, assailing the judgment of dismissal of the claim petitions filed by

them, to seek compensation, on account of death of Rajesh and injuries sustained by Sushil Kumar @ Sunil, in a motor vehicular accident.

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

That, on 11.03.2009, Rajesh and Sushil were coming from Narwana side to Kaithal, on motorcycle bearing registration No.HR-08F-9869, being driven by Rajesh, at a moderate speed and on the correct left side of the road. At about 8.00 p.m., when they reached bus stand Dhakal, a Mahindra Bolero Camper bearing registration No.HR-32D-0317 (offending vehicle), being driven in a rash and negligent manner, came from the front side and directly struck the motorcycle of Rajesh, while coming on its wrong side. Both, Rajesh and Sushil fell down and sustained injuries. Rajesh had died instantaneously, whereas, Sushil was shifted to General Hospital, Narwana for treatment. FIR was registered on the statement of Jogi Ram.

Thereupon, widow, children and parents of Rajesh had filed claim petition for seeking compensation, qua death of Rajesh and Sushil Kumar @ Sunil had also filed separate claim petition for seeking compensation, on account of injuries sustained, in the accident in question. Both the claim petitions were consolidated and decided together.

It is the claim of the appellants-claimants that the accident in question had taken place, due to rash and negligent driving of respondent No.1-Karamjit Singh, who was allegedly facing trial before Illaqa Magistrate, Narwana, at the time of filing of the claim petitions.

Upon notice, respondent No.1-Karamjit Singh, did not make appearance and was proceeded against ex-parte. However, respondent No.2-Satish Kumar, owner of the offending vehicle, had made appearance and had filed reply, thereby, raising preliminary objections about the petitions to be

false and frivolous and that no accident was caused, due to the negligence of Karamjit Singh. Furthermore, also asserted about the claimants to be having no cause of action and the petitions have been filed, only to cause harassment to the respondent. On merits, respondent No.2 did not deny about taking place of the accident, but however, he alleged that the said accident had taken place, only due to the fault of Rajesh, driver of the motorcycle.

Respondent No.3-insurance company, in the reply had also raised various preliminary objections, about no cause of action being there against the respondents and that the petitions are bad for mis-joinder and non-joinder of necessary parties. The claimants are estopped by their act and conduct from filing the claim petitions. The driver of the offending vehicle was not holding valid and effective driving licence. The claim is bogus, malafide and claim petitions are collusive between the claimants and respondents No.1 and 2, for wrongful gain.

On merits, the insurance company denied about taking place of the accident.

Issues were framed and evidence was adduced.

Sunita Devi, widow of Rajesh had stepped into witness box as PW-2 and further, Sushil Kumar @ Sunil, other claimant, who had sustained injuries, stepped into witness box as PW-6. Further, the claimants had examined PW-1 Jogi Ram, PW-3 Dr.R.K.Singla, PW-4 Dr.Manoj Soni and PW-5 Kuldeep Singh, besides adducing documentary evidence.

On the other hand, the respondents did not lead any oral evidence and tendered into evidence, various documents.

After hearing counsel for the parties and on appraisal of the

evidence, brought on record, learned Tribunal had concluded that the claimants have failed to prove that on 11.03.2009, the accident between motorcycle bearing No.HR-08F-9869 and Mahindra Bolero Camper bearing registration No.HR-32D-0317 (offending vehicle) had taken place, on account of rash and negligent driving of Karamjit Singh, driver of the offending vehicle. Consequently, issue No.1 qua blameworthiness was decided against the claimants and in favour of the respondents. Even, it was also held that so far as, the claim petition qua Sushil Kumar @ Sunil is concerned, the same is not maintainable at Kaithal, as he is resident of village Kothkalan Tehsil Hansi District Hisar. Subsequently, both the claim petitions were dismissed.

Being aggrieved, widow, children and parents of deceased Rajesh as well as injured Sushil Kumar @ Sunil have filed the respective appeals.

Respondent No.1 was proceeded against ex-parte. However, respondent No.2 and respondent No.3 made appearance through respective counsel.

Counsel for the parties heard.

At the very outset, it is vehemently submitted by learned counsel for the appellants-claimants that the judgment of Tribunal is impugned in the appeals, on the ground that Tribunal had rendered its decision, ignoring the settled principles governing the burden of proof, relating to the factum of accident, in a motor vehicular accident case and on the ground that the decision of the Tribunal, is the result of improper appreciation of evidence on record and inadvertence to the pleadings of the parties. In fact, much emphasis has been laid upon the testimony of injured

Sushil Kumar @ Sunil. Also the finding of non-maintainability of the petition, at his instance at Kaithal, has also been challenged, more particularly, when no objection, with regard to lack of territorial jurisdiction was taken by the respondents, at the earliest and therefore, it is also submitted that there was no consequent failure of justice and thus, this question, as such, was also not raised, at any stage by the respondents. It was of its own, learned Tribunal had made an observation, with regard to the maintainability, which ought not to have been made, considering the stage of the case.

On the other hand, counsel for contesting respondents submit that learned Tribunal had furnished valid reasons for recording finding that the appellants-claimants failed to establish about the involvement of the offending vehicle and role assigned to respondent No.1-Karamjit Singh. It is submitted that the evidence, as such, has been correctly appraised by learned Tribunal and therefore, finding so recorded by learned Tribunal, needs no interference.

Before advertng to the other submissions made, it is essential to make reference to the findings, with regard to the maintainability of the claim petition filed by Sushil Kumar @ Sunil. Perusal of the impugned judgment reveals that learned Tribunal had observed that the claim petition filed by Sushil Kumar @ Sunil is not maintainable at Kaithal, as he himself is resident of village Kothkalan Tehsil Hansi District Hisar and respondents No.1 and 2 are residents of District Jind. In this regard, reference was also made to the cross-examination of PW-6 Sushil Kumar @ Sunil, wherein, he states about himself to be resident of village Kothkalan and that he has no proof of residence of village Majra Nand Karan and that the accident had

taken place near bus stand Dhakal, District Jind.

Taking into consideration the aforesaid, also reference was made to Section 166(2) of the Motor Vehicles Act and it was observed that the claim petition for receiving compensation for injuries or death, can be filed at two places, firstly, where the accident had taken place and secondly, where the injured or legal representatives of the deceased are residing. Considering Sushil Kumar @ Sunil, not to be resident of the place, where the petition has been filed and that he was resident of village Kothkalan falling in Tehsil Hansi District Hisar, it was held that the claim petition, as such, is not maintainable.

Section 21 of the Code of Civil Procedure, 1908 deals with objections to jurisdiction and reads as herein given:-

(1) No objection as to the place of suing shall be allowed by any appellate or revisional court unless the objection was taken in the court of first instance at the earliest possible opportunity and in all cases where issues are settled on or before such settlement, and unless there has been a consequent failure of justice.

(2) No objection as to the competence of a Court with reference to the pecuniary limits of its jurisdiction shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity, and in all cases where issues are settled, at or before such settlement, and unless there has been a consequent failure of justice.

(3) No objection as to the competence of the executing Court with reference to the local limits of its jurisdiction shall be allowed by any Appellate or Revisional Court unless such objection was taken in the executing Court at the earliest possible opportunity, and unless there has been a consequent

failure of justice."

Thus, Sub-section (1) of Section 21 CPC postulates that before raising an objection to territorial jurisdiction, before an appellate or revisional court, two conditions precedent must be fulfilled:-

- i) The objection must be taken in the court of first instance at the earliest possible opportunity; and*
- ii) There has been a consequent failure of justice.*

The aforesaid two conditions were appraised by the Hon'ble Allahabad High Court in ***Sandeep Bhatnagar and others vs. State of U.P. and others, 2025(2) ARC 467***. Therein, after considering the provisions of Section 21, beneficial reference was also made to four judgments on the subject, in paragraphs No.15, 16, 17 and 18, which are reproduced in verbatim”

15. In Harshad Chiman Lal Modi Vs. DLF Universal Ltd. MANU/ SC/0710/2005 : (2005) 7 SCC 791 this Court held that *an objection to territorial and pecuniary jurisdiction has to be taken at the earliest possible opportunity. If it is not raised at the earliest, it cannot be allowed to be taken at a subsequent stage. This Court held as under:-*

"3). The jurisdiction of a court may be classified into several categories. The important categories are (i) Territorial or local jurisdiction; (ii) Pecuniary jurisdiction; and (iii) Jurisdiction over the subject matter. So far as territorial and pecuniary jurisdictions are concerned, objection to such jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of issues. The law is well settled on the point that if such objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage. Jurisdiction as to subject matter, however, is

totally distinct and stands on a different footing. Where a court has no jurisdiction over the subject matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take up the cause or matter. An order passed by a court having no jurisdiction is nullity.

16. In **Hasham Abbas Sayyad Vs. Usman Abbas Sayyad** MANU/SC/5541/2006: (2007) 2 SCC 355, a two judge Bench of this Court has held as under:-

"24. We may, however, hasten to add that a distinction must be made between a decree passed by a court which has no territorial or pecuniary jurisdiction in the light of Section 21 of the Code of Civil Procedure Code, and a decree passed by a court having no jurisdiction in regard to the subject-matter of the suit. Whereas in the former case, the appellate court may not interfere with the decree unless prejudice is shown, ordinarily the second category of the cases would be interfered with."

17. Similarly, in **Mantoo Sarkar Vs. Oriental Insurance Co. Ltd.** MANU/SC/8464/2008: (2009) 2 SCC 244, a two judge Bench of this Court held as under :-

"20. A distinction, however, must be made between a jurisdiction with regard to the subject matter of the suit and that of territorial and pecuniary jurisdiction. Whereas in the case falling within the former category the judgement would be a nullity, in the latter it would not be. It is not a case where the Tribunal had no jurisdiction in relation to the subject matter of claim... in our opinion, the Court should not have, in the absence of any finding of sufferance of any prejudice on the part of the first respondent, entertained the appeal."

18. In a recent judgement in **Punjab National Bank Vs. Atin**

Arora & another, Supreme Court [2025 LiveLaw (SC) 27], the Hon'ble Supreme Court has held that while exercising its discretion, the Court overlooked the provisions of Section 21 of the Code of Civil Procedure, 1908, whose principles and rule, should be applied in the present case. The principle enjoins that objections regarding the place of suing shall not be allowed unless such objection is taken in the Court/ tribunal of first instance at the earliest possible opportunity.

In the aforesaid authority, the Court was considering the review/recall of the judgment passed by the High Court in First Appeal, wherein, the ground taken was that prior to delivery of judgment in First Appeal....., the pecuniary jurisdiction of the District Judge was raised from Rs.5,00,000/- to Rs.25,00,000/- vide Gazette Notification No. 1599/79-V-1-15-1(ka)19/2015 dated 07.12.2015. Section 19 of The Bengal, Agra and Assam Civil Court Act, 1987 was amended and the concerned District Judges were conferred jurisdiction to hear appeals of valuation up to Rs.25,00,000/-. In this context, the pecuniary jurisdiction of the first appeal was asserted to be that of learned District Judge and the Hon'ble High Court, ought not to have decided the first appeal, instead, the same ought to have been remanded/transferred to the concerned District Judge.

While considering the said question, after making reference to the case law as observed aforesaid, it was concluded as herein given:-

“28. From the above proposition it is clear that lack of jurisdiction either the pecuniary or territorial, has to be taken at the earliest opportunity. But in this case, the same has not been raised before this Court before passing of the judgement and the same has not been raised before Hon'ble Apex Court.”

Ultimately, it was held that the appellant cannot be allowed to raise the lack of pecuniary jurisdiction, at such belated stage and the review application together with condonation of delay application, was rejected.

Furthermore, beneficial reference is also made to the decision rendered by the Hon'ble Supreme Court in ***Balveer Batra vs. The New India Assurance Company & Anr., 2024 INSC 361***, wherein, while dealing with the question of jurisdiction, relating to the Motor Vehicles Act, it was held that the objection of lack of territorial jurisdiction in appeal against the Award granting compensation, cannot be entertained. Therein, the Hon'ble Supreme Court, while considering the question, with regard to the objection of territorial jurisdiction of the Tribunal in a motor vehicular accident case, made reference to ***Malati Sardar vs. National Insurance Company Ltd., 2016 (3) SCC 43***, wherein, in context of relevance of the contentions raised in the case under consideration, the Court specifically observed about the question formulated in aforesaid case, which reads as herein given:-

“The question raised in this appeal is whether the High Court was justified in setting aside the award of the Motor Accident Claims Tribunal, Kolkata only on the ground that the Tribunal did not have the territorial jurisdiction”.

Furthermore, the Hon'ble Supreme Court also made reference to the answer given to the aforesaid question in ***Malati's case (supra)***, which reads as herein given:-

“The question for consideration thus is whether the Tribunal at Kolkata had the jurisdiction to decide the claim application under Section 166 of the Act when the accident took place outside Kolkata jurisdiction and the claimant also resided

outside Kolkata jurisdiction, but the respondent being a juristic person carried on business at Kolkata. Further the question is whether in absence of failure of justice, the High Court could set aside the award of the Tribunal on the ground of lack of territorial jurisdiction.”

Further, it was also held in ***Malati’s case (supra)*** by the Court that the provision in question i.e. relating to the Motor Vehicles Act, is a benevolent provision for the victims of accidents of negligent driving and in such circumstances, it has to be interpreted with the object of facilitating remedies for the victims of accidents. It was further held in *Malati’s case (supra)*, which is reproduced as under:-

“.....Hyper technical approach in such matters can hardly be appreciated. There is no bar to a claim petition being filed at a place where the insurance company, which is the main contesting parties in such cases, has its business. In such cases, there is no prejudice to any party. There is no failure of justice.”

Considering the case law aforesaid and also taking into consideration the provisions of Section 21 of CPC, the Hon’ble Supreme Court in ***Balveer Batra’s case (supra)***, had observed as herein given:-

“13. A bare perusal of Section 21, CPC would reveal that objection as to the place of suing is not to be entertained by any Appellate or Revisional Court if it was not taken in the Court of first instance at the earliest possible opportunity and unless there has been a consequent failure of justice. While looking into the object and reasons for the aforesaid provision it is very clear as to why lack of territorial jurisdiction by itself was not recognized under it as a reason to make a judgment/decreed a nullity. It is to be noted that it is quite different and distinct

from inherent lack of jurisdiction which would strike at the very authority of the Court to try a case and pass a judgment/decreed and would make it a nullity. On a careful consideration of the provisions under Section 21, CPC, we are of the considered view that the provisions would undoubtedly make it clear though taking of an objection as to the lack of territorial jurisdiction before the Court of first instance at the earliest opportunity is a condition required to raise that objection before an appellate or revisional Court satisfaction of such condition by itself would not make an award granting compensation a nullity inasmuch as in such cases there would not be inherent lack of jurisdiction in Court in regard to the subject matter. Therefore, in such cases, correction by a Court is open, only if it occasions in failure of justice. The provision thus, reflects the legislative intention that all possible care should be taken to ensure that the time, energy and labour spent by a Court did not go in vain unless there has been a consequent failure of justice.”

Also further, while making reference to the provisions of Section 165 and 166 of the Motor Vehicles Act, the Hon’ble Supreme Court has made an observation, as herein given:-

“17. The words ‘at the option of the claimant’ employed in Section 166(2) and the options available to a claimant in regard to places for suing for such compensation under Section 166 (2), assume relevance for consideration of the moot question. Indubitably, the statute indicates that option lies with the claimant to make application for compensation either to the Claims Tribunal having jurisdiction over the area in which the accident occurred, or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides. There can be no doubt with respect to the

position that if more than one Court has jurisdiction to adjudicate a dispute it will be open to the party concerned to choose one of the competent Courts to decide his dispute. Thus, it is obvious that merely because the claimant made the application for compensation not to the Claims Tribunal having jurisdiction over the area in which the accident occurred or not to the Claims Tribunal within the local limits of whose jurisdiction he resides or carries on business, is no reason to dismiss the application provided it is filed before a Claims Tribunal where it is otherwise maintainable. This aspect calls for consideration not solely confining to strict construction of the rest of the provision under Section 166 (2) of the M.V. Act, but by looking into various other authorities, as well.”

Reference was also made to ***United India Insurance Co. Ltd. v. Shila Datta, 2011 (10) SCC 509***, wherein it was held that an award by Tribunal could not be seen as adversarial adjudication between litigating parties to a dispute and in troth, it is a statutory determination of compensation on the occurrence of an accident, after due enquiry.

In view of the aforesaid case law, now adverting to the case in hand. It is significant to pin point that Sushil Kumar @ Sunil, while filing the claim petition had mentioned himself to be permanent resident of village Kothkalan Tehsil Hansi, District Hisar and specifically further mentioned that now, resident of village Nand Karan Majra, Tehsil and District Kaithal. However, the contesting respondents, though filed separate replies to the claim petition, but they did not raise any objection, with regard to the maintainability of the claim petition at Kaithal, nor even, such an objection was raised, at their instance, during the course of making submissions before the Tribunal. Such an observation was made only by learned Tribunal, of its own.

Learned Tribunal had made reference to cross-examination of PW-6 Sushil Kumar @ Sunil, wherein, he admitted about himself to be resident of village Kothkalan Tehsil Hansi, District Hisar and he further stated that he is having no proof of his residence at village Nand Karan Majra. This part of the testimony has been considered singularly, without considering in-between disclosure made, with regard to the residence by the claimant. In fact, Sushil Kumar @ Sunil had also stated that his paternal aunt lives in village Kothkalan. Also stated thereafter that he had disclosed about his residence now, at Nand Karan Majra. This fact has also been disclosed by Sushil Kumar @ Sunil, in his claim petition. He has given both the addresses and no cross-examination, relating to his present residence, as such, has been conducted.

In the light of the same, no objection, as such, has been raised by the contesting respondents, at earlier stage and in the minimum, not before framing of the issues and furthermore, the entire evidence was recorded. In the given circumstances, at the stage of final arguments, such observation being made, with regard to the maintainability, as such, cannot be allowed to be raised, vis-a-vis, territorial jurisdiction, at this belated stage, more particularly, when the claimant himself states to be residing at village Nand Karan Majra, at the relevant time. On this account, the finding so recorded by learned Tribunal, on the aspect of maintainability of the claim petition, as such, is hereby reversed.

Proceeding further, now taking into consideration the submissions made by counsel for the parties, as aforesaid, vis-a-vis, factum and manner of taking place of the accident, it is pertinent to note that the accident was alleged to have taken place at 8.00 p.m. on 11.03.2009. Jogi

Ram is asserted to be an eye witness to the accident in question and FIR was got lodged by him on 12.03.2009. Undisputedly, the FIR was got lodged against the unknown vehicle, though make of the vehicle was mentioned, but there was no mention of the number therein. As per the version of the claimants, Jogi Ram was following the ill-fated motorcycle, at the relevant time. He has categorically deposed that he is an eye witness to the accident in question and further also deposed about the instantaneous death of Rajesh, in the accident and that Sushil Kumar @ Sunil had sustained injuries.

Further, he had categorically deposed that the accident had taken place, due to sole rash and negligent driving of respondent No.1-Karamjit Singh. However, while considering the statement of Jogi Ram, much emphasis has been laid upon the recitals of the FIR Ex.P1, which was got recorded against the unknown driver and further also, on report under Section 173 Cr.P.C. Ex.P2, wherein, the offending vehicle was shown as Mahindra Bolero Camper bearing registration No.HR-32D-0317. The FIR, undisputedly, was registered against the unknown driver and unknown number, though, make was as such mentioned. However, considering the same, reliance, as such, singularly cannot be placed on the report under Section 173 Cr.P.C., which states about Karamjit Singh, driver having been arrested on 20.03.2009.

Much emphasis was laid upon the cross-examination of Jogi Ram, wherein, he stated that he never told the number of the offending vehicle to the police. May it be so, the testimony of Jogi Ram, as such, cannot be considered singularly. Besides the aforesaid, another witness examined is PW-5 Kuldeep Singh, who in his affidavit, had stated about having received a telephonic message on 12.03.2009, about Rajesh to have

met with an accident near village Dhakal and that Sushil Kumar @ Sunil had received multiple injuries, in the accident. He also stated that he along with Dilbagh Singh reached the place of occurrence and people gathered there, told that the offending vehicle was belonging to wine contractor of Dhakal liquor vend. He further deposed that he had enquired from injured Sushil Kumar @ Sunil and the persons present at the place of occurrence, at the relevant time and came to know that accident had taken place, due to rash and negligent driving of Karamjit Singh.

Though the said witness has been examined, but he is definitely, is not an eye witness to the accident in question. He had stated about the registered number of the vehicle, to have been told to him by the people gathered at the place of occurrence, but, he was unable to tell their names. However, learned Tribunal, while discussing about the factum and manner of accident, has relied upon the statements under Sections 161 and 175 Cr.P.C., made by Kuldeep Singh, which as such, do not appear to be part of the record.

Considering the same, it has been observed further that Kuldeep Singh never made statement to the police on the same day i.e. 11.03.2009. This observation made by learned Tribunal is palpably erroneous. In this regard, suffice to make reference to the cross-examination of Kuldeep Singh, who had categorically stated that he had received telephonic call from the native village at about 8.00 a.m. from Karambir. It shows that call was received on 12.03.2009 and therefore, no statement of the said witness, could have been recorded on 11.03.2009. In fact, he came to know about the accident, on the morning of next day and therefore, no such adverse inference can be drawn about the statement having not been recorded by Kuldeep Singh.

Jogi Ram had got recorded statement at about 11-11.30 a.m. on 12.03.2009. This time of recording of the FIR has to be taken into consideration, with regard to the fact that death of one person had taken place and other was injured. From the tail-end of the FIR, it is evident that after receipt of the information, the police official had gone to the hospital and enquired about injured and it was disclosed that injured Sushil Kumar @ Sunil is not found on his bed. Thereupon, the police official had gone to the dead house, where dead body of Rajesh was kept and there, he met Jogi Ram and recorded his statement. Also, from the noting given in the FIR, it is evident that on that very day, the concerned police official came to know about Sushil Kumar @ Sunil, having been taken to CMC Hospital, Hisar. It may be that Sushil Kumar @ Sunil had gone away from the hospital of his own, but however, no such wrong was done on his part or his caretakers, at the relevant time, as the prime necessity was to extend best treatment to injured Sushil Kumar @ Sunil and the caretakers may have taken him to CMC Hospital, Hisar.

That being so, once the police official came to know about the injured to have been taken to CMC Hospital, Hisar, it was required further to make an effort to record the statement of Sushil Kumar @ Sunil, at the earliest. Why so, if any, there was lapse, on the part of the police officials and therefore, relating to the same, no adverse inference can be raised against Sushil Kumar @ Sunil. Even, record of admission and discharge of Sushil Kumar @ Sunil has been proved through PW-4 Dr. Manoj Soni. The said record also contains the document relating to the information sent to the police, vis-a-vis, admission of Sushil Kumar @ Sunil, in the hospital. PW-4 Dr. Manoj Soni, also in cross-examination had stated about ruqqa having

been sent to the police. However, what happened thereafter, it is a wide guess. Anyhow, Sushil Kumar @ Sunil himself stepped into witness box as PW-6. He has categorically deposed about the manner of taking place of the accident and also deposed about offending vehicle to be bearing registration No.HR-32D-0317 and further imputed rashness and negligence, on the part of respondent No.1-Karamjit Singh.

Learned Tribunal had also observed that why the statement of Sushil Kumar @ Sunil was not recorded and why the opinion was not obtained about him to be fit to make statement. These observations are also palpably erroneous. Since, the information was sent, what happened thereafter, nothing, as such, is coming on record. From the testimony of Sushil Kumar @ Sunil, it is evident that two operations of his stomach were conducted and one operation of his finger was conducted. His right arm was fractured and he was still under treatment. As per medical record, he remained admitted in the hospital for a period of about 8 days.

In the given circumstances, it is also erroneous, on the part of Tribunal to observe that surprisingly, as to why Sushil Kumar @ Sunil injured, who was an eye witness, did not make any statement before the police on 11.03.2009. Considering the medical condition of injured Sushil Kumar @ Sunil, it cannot be, in any manner, expected that he would be recording statement on 11.03.2009. The accident had taken place at 8.00 p.m. He was firstly taken to General Hospital, Narwana and thereafter, he was taken to CMC Hospital, Hisar. The anxiety on the part of caretakers is solely to extend best treatment to the injured, in such a situation. He might not have been referred to CMC Hospital, Hisar and even if it is taken that he had, of his own, at the instance of caretakers, gone to CMC Hospital, Hisar,

this also matters not much.

In fact, learned Tribunal had laid much emphasis upon the FIR as well as report under Section 173 Cr.P.C. The concerned Tribunal remained oblivious of the condition of the victim, soon after the accident and had observed impliedly about there being delay in lodging of the FIR.

In any case, considering the manner of accident and the fact of one person having died and the other having sustained serious injuries, there cannot be said to be any delay in lodging the FIR and otherwise also, the delay in lodging the FIR, cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, it cannot be expected that a common man, firstly rush to the police station immediately, after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated, rather than, rush to the police station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging of the FIR with the police. As such, the delay in lodging the FIR, thus cannot be a ground to deny justice to the victim. Lodging of FIR, certainly proves the factum of accident, so that the victim is able to lodge a case for compensation, but delay in doing so, cannot be the main ground for rejecting the claim petition, in any case. In case of any delay, which though in the case in hand, is not there, it only cautions the Court to remain vigilant and to scrutinize the evidence, more carefully.

It has to be considered that purpose of lodging the FIR is primarily to intimate the police to initiate investigation. FIR need not contain all the details, relating to the occurrence in question. The names of the eye witnesses also need not to be mentioned in the FIR. On what basis, the

accused was arrested in a criminal case, also has to be considered, if the Investigating Officer, as such, has been examined. In any case, the factum of accident, need not be proved in criminal cases by the standard of reasonable doubt. The report under Section 173 Cr.P.C., also need not be scanned very minutely as done in the present case. The Tribunal has to take a broad and comprehensive view of the matter and the claimants are not required to prove each and every fact, relating to the occurrence of the accident meticulously.

Time and again, it has been held by the Courts that in claim cases under Motor Vehicles Act, the claimants are expected to merely establish their case on touchstone of preponderance of probability and the standard of proof beyond reasonable doubt shall not be applied. In the case in hand, the Tribunal had overlooked the said established principle and erroneously recorded the finding, as if it was appraising the evidence led in the criminal case. The Tribunal, while going through the contents of the written statement filed by respondent No.2, ought to have understood properly, the scope of his contest in the claim petition, in relation to the factum of accident.

Respondent No.1 was proceeded against ex-parte. Respondent No.2, who is owner of the vehicle, in the written statement, admitted about the factum of accident, though, denied about the manner of taking place of the same. No evidence, as such, has come on record, at the behest of the respondents to contest about the accident having not taken place or with regard to manner of taking place of the same. The owner of the offending vehicle also apart from making bald denial of the averments in the petitions, in relation to the manner of taking place of the accident, had not led any

evidence. Collusion between the claimants as well as the driver and owner of the offending vehicle in question, was though taken by the insurance company, but nothing as such, has been brought on record to so substantiate this plea of collusion.

Thus, considering the evidence, brought forth as a whole, the findings recorded by learned Tribunal, qua rashness and negligence, not being there, on the part of respondent No.1-Karamjit Singh, as such, is hereby reversed.

Learned Tribunal, having held that the appellants-claimants failed to establish that the accident was caused due to the rash and negligent driving of driver of the offending vehicle, also declined to make any assessment of the compensation, for which the appellants-claimants are entitled. It will cause unnecessary delay and undue hardship to the appellants-claimants, if the matter is remanded back to the Tribunal, only for the purpose of making assessment of the compensation. Therefore, this Court takes up the job of computing the compensation, based on the evidence available on the record.

Now, in this backdrop, firstly, coming to the compensation to be assessed qua death of Rajesh, who was driving the ill-fated motorcycle, at the relevant time. The claim petition was filed at the instance of widow, two children and parents of deceased Rajesh, while asserting themselves to be dependent upon the deceased. Sunita Devi stepped into witness box as PW-2 and in her affidavit, she has deposed about factum of death of her husband, in the accident in question. Even, post-mortem report of Rajesh has been proved as Ex.PW3/B by Dr.R.K.Singla, SMO, General Hospital, Narwana.

It is the pleaded case of the claimants that deceased Rajesh was

working as *mistri* in Raj Rana Saw Mills, Kaithal and his monthly earnings were Rs.15,000/-. Very true, as pointed by learned counsel for the respondents that but for the assertions made in the claim petition and the affidavit of Sunita Devi, no other evidence, relating to this source of avocation, has come on record. However, there is no reason, coming forth, to dispute about the assertions made by Sunita Devi, with regard to her husband working as *mistri* in Raj Rana Saw Mills, Kaithal. However, simultaneously, it ought to be taken into consideration that always, there is tendency prevalent amongst the claimants to show exaggerated earnings of the deceased to seek more compensation. Considering the deceased to be a skilled worker, in the fitness of circumstances, in modest estimate, his earnings are taken as Rs.4500/- per month.

Keeping in view the number of dependents, 1/4th is to be deducted, on the count of 'personal expenses'. To the residue amount, on the count of 'future prospects', addition has to be made to the extent of 40%. Considering the deceased to be falling in age group of 24-25 years, '18' is the suitable multiplier to be applied. Besides the same, as per '***Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130***', each of the claimants/dependents are entitled to compensation, on the count of 'loss of consortium', be it 'parental', 'spousal' or 'filial', which comes to be Rs.48,400/- each and they are also entitled to compensation on the counts of 'loss of estate' and 'funeral expenses' to the extent of Rs.18,150/- on each count.

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

Income	Rs.4500 per month
Deduction of 1/4th	Rs.4500-1125=Rs.3375/-
Addition of 40%	Rs.3375+1350=Rs.4725/-
Multiplier of '18'	Rs.4725x12x18=Rs.10,20,600/-
Loss of consortium	Rs.48,400x5=Rs.2,42,000/-
Loss of estate	Rs.18,150/-
Funeral expenses	Rs.18,150/-
Total	Rs.12,98,900/-

As such, the appellants-claimants in FAO-6125-2011, are held entitled to compensation to the extent of **Rs.12,98,900/-**. Out of the assessed amount, appellant-claimant No.1 be paid an amount of **Rs.5,98,900/-**, whereas, appellants-claimants No.2 and 3 each be paid **Rs.2,50,000/-** and appellants-claimants No.4 and 5 each be paid **Rs.1,00,000/-**.

Now, coming to the compensation to be granted to Sushil Kumar @ Sunil, qua the injuries sustained by him, in the accident in question.

PW-3 Dr.R.K.Singla, SMO, General Hospital, Narwana, at first instance, had examined injured Sushil Kumar @ Sunil, soon after the accident and he found following injuries on his person:-

1. *A lacerated wound 3 cm x 1 cm on anterior lower part of left fore-arm was present. Fresh bleeding was present. X-ray of left fore-arm was advised.*
2. *A lacerated wound 1 cm x 1 cm on right lateral fore-head was present. Fresh bleeding was present. X-ray was advised.*
3. *A lacerated wound 1 cm x 1 cm on right little finger was present. X-ray was advised."*

He also stated that all the injuries were described as road side accident and the copy of the MLR was proved as Ex.PW3/A.

Furthermore, claimant-Sushil Kumar @ Sunil, in his affidavit

Ex.PW6/A, has also deposed about detail of the injuries suffered by him, in the accident in question, which are in consonance with the injuries detailed aforesaid. It is the claim of the appellant-claimant that he was taken to General Hospital, Narwana and there from, he was taken to CMC Hospital, Hisar, where he remained admitted in hospital from 12.03.2009 to 20.03.2009.

PW-4 Dr.Manoj Soni, Medical Officer, CMC Hospital, Hisar, has been examined. He deposed about the admission and treatment of injured Sushil Kumar @ Sunil, in their hospital. He deposed that on the date of admission only, the injured was operated by him. There was laceration in spleen. Splenectomy was done. Further also, he proved the attested copy of the treatment record Ex.PW4/B, which also states about kind of injuries and the aforesaid treatment undergone by injured Sushil Kumar @ Sunil. The aforesaid witness also proved the bills raised by their hospital, with regard to the treatment extend to Sushil Kumar @ Sunil, which is Ex.PW4/A.

Besides the same, various other bills, relating to the expenditure incurred on the purchase of medicines etc. have also been brought on record as Ex.P3 to Ex.P20. Including the said bills and also taking into consideration Ex.PW4/A, which co-relate to the treatment undergone by the injured-claimant, the total expenditure incurred comes to be **Rs.70,072/-**.

During the period of his hospitalization and some time thereafter, the appellant-claimant must have not been able to attend to his source of livelihood. It is the categorical claim that he was running an electrical shop and was working as electrician. Thus, assessing his earnings as Rs.10,000/- per month, it is taken that he would not have been able to look after his work, for a period of about four months, in the minimum and

on this account, the loss of earnings for this period is assessed as **Rs.40,000/-**.

Besides the same, looking at the kind of injuries and duration of his hospitalization, definitely, the appellant-claimant, must have been put on special diet for healing process and he must have used conveyance and on account of use of conveyance 'to and fro' to the hospital, substantial amount must have been spent by the family of the appellant-claimant. During the period of his hospitalization and after discharge from the hospital also, the appellant must have been looked after by at least one attendant, as there was need for 'assisted' living. Further also, there was bound to be need for 'assisted' living, at least for some period of time in future, till the appellant-claimant, could adept himself to be self-reliant. Thus, on the counts of 'special diet', 'transportation' and 'attendant charges', the compensation is awarded to the extent of **Rs.20,000/-**, **Rs.10,000/-** and **Rs.20,000/-**, respectively.

Looking at the factual situation aforesaid and considering the kind of injuries sustained as well as the period of hospitalization, the appellant-claimant must have suffered pain and remained under traumatic state of mind. Thus, on this count, the compensation of **Rs.40,000/-** is awarded.

Thus, on various counts, as detailed aforesaid, the compensation to be granted to appellant-claimant Sushil Kumar @ Sunil, is computed as herein given:-

1.	Medical Bills	Rs.70,072/-
2.	Loss of earnings	Rs.40,000/-
3.	Special diet	Rs.20,000/-
4.	Transportation	Rs.10,000/-

5.	Attendant charges and	Rs.20,000/-
6.	Pain and suffering	Rs.40,000/-
	Total	Rs.2,00,072/-

On the amount of the compensation as now worked upon in both the cases, 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. The liability of respondents No.1 to 3 is held to be joint and several, to pay the amount of compensation, as now worked upon.

With the above observations, both the appeals stand allowed.

September 10, 2025	(ARCHANA PURI)
Vgulati	JUDGE
Whether speaking/reasoned	Yes
Whether reportable	Yes/No