



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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FAO-3836-2016(O&M)
Date of decision: 06.08.2025

Subhash & Another

...Appellant(s)

Vs.

Khem Chand & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- None for the appellants.

Mr. Vishal Aggarwal, Advocate
for respondent No.3-Insurance Company.

NIDHI GUPTA, J.

Present appeal has been filed by the claimants against the dismissal of their Claim Petition by the Motor Accident Claims Tribunal, Palwal vide Award dated 12.01.2016 passed in MACT Case No.125 dated 21.08.2014 filed under Section 166 of the Motor Vehicles Act. The 2 claimants are the parents of the deceased Sukhdev.

2. At the very outset, it may be pointed out that present appeal is of the year 2016, in which notice of motion was issued by a Co-ordinate Bench of this Court vide order dated 26.07.2019; whereafter, none has appeared on behalf of the appellants on 18.09.2019, 06.05.2022, 09.03.2024, 19.03.2024 including the last two dates of hearing i.e. 09.04.2024 and



08.07.2025. In view of the same, the matter is being heard and decided in the absence of learned counsel for the appellants.

3. Brief facts of the case are that the learned Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the appellant/claimants were unable to prove that the deceased Sukhdev had died due to the injuries suffered by him in the motor vehicular accident that took place on 12.04.2014 due to the alleged rash and negligent driving of tractor bearing registration No.RJ-05-RA-7707 (hereinafter “the offending vehicle”) by respondent No.1. The offending vehicle was owned by respondent No.2 and insured by respondent No.3.

4. It is submitted by learned counsel for respondent No.3- Insurance Company that the Claim Petition of the claimants was rightly dismissed by the learned Tribunal. It is submitted that the offending vehicle was falsely implicated in the matter by the claimants only with a view to procure the compensation under the Act. No cogent evidence was led by them to prove the involvement of the offending vehicle in the accident in question. Ld. counsel accordingly prays that the present appeal be dismissed.

5. Heard.

6. I find merit in the submissions made on behalf of the respondent No.3-Insurance Company.

7. The case set up by the claimants before the learned Tribunal is as follows: -



“Brief facts of the case as averred in the petition are that on 12.4.2014, his brother Sukhdev (since deceased) along with one person was present at Hodal on motor-cycle bearing registration no.HR-26AH-2192. The complainant Dhan Singh had met them at Punhana turn, Hodal and on making enquiry by him, Sukhdev told him that he had come to Hodal for some personal work. Thereafter, Sukhdev along with the person accompanying him, had left that place on his aforesaid motorcycle and simultaneously, the complainant with one Chattar Singh also left the place and was following the motor-cycle of Sukhdev by his own motor-cycle no.HR-52C-0580. However, after covering some distance, he found his brother Sukhdev and the person accompanying him lying on the road along with the motor-cycle. By arranging a private vehicle, he shifted Sukhdev to Escorts Hospital, Faridabad for treatment, but Sukhdev succumbed to his injuries and died in the said hospital on 14.4.2014. The accident in question had taken place due to rash and negligent driving of the offending vehicle by its driver. Hence, a criminal case vide FIR No.185 dated 14.4.2014 under sections 279 and 304-A of IPC was registered against unknown driver and vehicle at police station Hodal in respect of the accident in question.”

8. However, a perusal of the record establishes that the claimants had failed to discharge their onus to prove that the accident had taken place due to the rash and negligent driving of the offending vehicle. Admittedly, there was no eyewitness to the accident in question. The FIR (Ex.P4) was registered on the basis of statement made by Dhan Singh PW3, who is related to the claimants. The FIR was registered after unexplained delay of two days



against unknown person in which number of the offending vehicle was not mentioned. Dhan Singh has admitted in his cross-examination that at the time of registration of FIR, he did not know the identity of the offending vehicle or that of the driver. It has been stated by Dhan Singh (PW3) that number of the offending vehicle was disclosed to him by the Investigating Officer in the criminal case. However, the said Investigating Officer nor any other Police Official has been examined by the claimants. As such, it is not clear as to on what basis, the offending vehicle and its driver were identified by the claimants.

9. What clinches the issue is that RW1 Manish, Record Keeper of Fortis Hospital, Faridabad where the deceased was admitted prior to his death, had produced on record Ex.R2, MLR of the deceased. It is recorded in the MLR that the doctor who had conducted the medical examination of the victim/deceased, had recorded history of alleged roadside accident of the victim who was on a motorcycle '*with a three-wheeler tempo*'. Whereas as per the claimants, the accident of the deceased had taken place with the offending tractor. No explanation has been given by the claimants at any juncture explaining this discrepancy in the record.

10. Learned counsel for respondent No.3 has also handed over a copy of the judgment dated 14.05.2018 passed by Sub-Divisional Judicial Magistrate, Hodal, whereby the respondent No.1 stands acquitted in the



criminal trial in case FIR No.185 dated 14.04.2014. The same is taken on record.

11. In view of the above undisputed facts on record, present appeal is **dismissed**.

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

06.08.2025

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No