

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****240****FAO-4591-2016(O&M)****Date of decision: 23.07.2025****Dinesh Singh & Others****...Appellant(s)****Vs.****Anil Kumar & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Jarnail S. Saneta, Advocate
for the appellants.

Mr. Ranjit Singh Kalra, Advocate
for the respondents No.1 & 2.

Mr. Sandeep Suri, Advocate
Mr. Karan Gaba, Advocate
for respondent No.3 (through VC).

NIDHI GUPTA, J.

Present appeal has been filed by the 4 claimants against the dismissal of their Claim Petition No.43 dated 01.04.2014 filed under Section 166 of the Motor Vehicles Act by the learned Motor Accident Claims Tribunal Panipat vide Award dated 02.11.2015. The 4 claimants are the husband and 3 children of deceased Aarti.

2. The pleaded case of the appellants before the learned Tribunal was that: -



“2. The case of the claimants, in brief is that on 20.12.2013, Bhim Singh alongwith Aarti and claimant Abhishek were coming from Samalkha to Panipat on a motorcycle bearing registration No. HR-06Y-1519, which was being driven by Bhim Singh. When they reached near the cut of BBMB, one three-wheeler bearing registration No. HR-46C-6944, which was being driven by its driver in a rash and negligent manner and at a very high speed, all of a sudden took a turn towards the said cut and directly hit the same against the motorcycle of Bhim Singh. As a result of this impact, Bhim Singh, Aarti and Abhishek fell down on the road and they sustained multiple and grievous injuries on their person. All the injured were shifted to Prem Hospital, Panipat, where doctor declared Aarti as dead. The accident in question took place due to rash and negligent driving of the three-wheeler No. HR-46C-6944 by the respondent no.1. A case bearing First Information Report No.970 dated 20.12.2013 was registered in Police Station Chandni Bagh, Panipat, regarding the said accident.

3. It is further case of the claimant that the deceased was aged 32 years at the time of her death. She was doing the work of tailoring and stitching, thereby earning Rs. 15,000/-. The claimants have spent a huge amount on the transportation and last rites of the deceased. The claimants being legal heir of the deceased are entitled to get compensation for her death. An amount of Rs.20 lacs has been claimed as compensation.”

3. Learned Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the appellants had been unable to prove that the three-wheeler bearing



registration No.HR-46C-6944 (hereinafter “the offending vehicle”) was not involved in the accident in question in which the deceased died due to the injuries suffered by her. As such, the claim petition was dismissed.

4. Learned counsel for the appellants inter alia submits that the learned Tribunal has dismissed the Claim Petition on the wrong premise that PW2 Bhim Singh had given wrong vehicle number. It is submitted that the learned Tribunal has dismissed the claim of the appellants on the ground that in the proceedings under Section 174 Cr. P.C. Bhim Singh/ PW-2 had made statement before the police vide which he had given the number of the offending three-wheeler-HR. No. 67-7468; whereas the claimants have falsely involved the vehicle bearing registration no. HR-46C-6944. In this respect it is submitted that the said PW-2/Bhim Singh has never made the statement before the police to the effect that the accident was caused by vehicle three-wheeler-HR. No.67-7468 and he had got the FIR registered against unknown vehicle and driver and even the police had got recovered the vehicle bearing registration no. HR-46C-6944 and its RC owned by Satbir son of Sh. Ram Gopal, resident of 126, Jindran, District Rohtak. It is accordingly prayed that the appeal be allowed, and the impugned Award be set aside and compensation of Rs.20 lakh along with interest @ 18% per annum be awarded to the appellants.

5. Learned counsel for the respondents No.1 and 2 assisted by learned counsel for respondent No.3 points out that the alleged eyewitness



and complainant Bhim Singh (PW2) had made a categorical statement before the Police to the effect that the vehicle involved in the accident bore registration No.HR-67-7468. FIR No.970 dated 20.12.2013 (Ex.P1) regarding the accident in question had been registered on the same date 20.12.2013 on the statement of PW2 Bhim Singh. Name of driver and registration number of the offending vehicle was not mentioned in the FIR. Three days later, Bhim Singh had made a statement to the Police stating that a vehicle bearing registration No.HR-67-7468 was involved in the accident. In the proceedings under Section 174 Cr.P.C., Bhim Singh gave the number of the offending three-wheeler as HR-67-7468. However, subsequently, the respondents No.1 & 2/driver and owner respectively of the three-wheeler bearing registration No.HR-46C-6944/offending vehicle, were implicated in the matter.

6. Learned counsel further points out that in the criminal trial conducted in the FIR No.970 dated 20.12.2013, the respondent No.1/driver of the offending vehicle has been duly acquitted by the learned Additional Chief Judicial Magistrate, Panipat vide judgment dated 26.02.2018, a copy of which is handed over in the Court, the same is taken on record and the a copy of the same is supplied to the counsel opposite. It is submitted that therefore, the respondents have been falsely involved in the case. Learned counsel accordingly prays for dismissal of the present appeal.

7. No other argument is made on behalf of the parties.



8. I have heard learned counsel and perused the case file in detail.

I find no merit in the submissions made on behalf of the appellants.

9. The controversy is settled by the findings of the learned Additional Chief Judicial Magistrate, Panipat contained in judgment dated 26.02.2018 vide which driver of the offending vehicle has been acquitted.

The relevant extract of the said judgment of acquittal reads as follows: -

“15...However, the complainant Bhim Singh while stepping into the witness box as PW5 has turned hostile and has refused to recognize the accused present in Court as the person who was driving his vehicle on that fateful day and while driving it rashly and negligently has caused the accident and the deceased died due to the injuries sustained in the same. Thus, from his testimony, it has not been proved by the prosecution that the offending vehicle has been driven rashly and negligent and at a high speed which endanger human life and safety of others and it was due to the rash and negligent driving of the offending vehicle that accident had taken place. PW4 HC Rajbir Singh has no doubt deposed in favour of the prosecution version and has proved the material documents on record. However, in his cross-examination it has clearly come on record that the complainant has informed him the vehicle number with whom the accident took place as HR-67-7468, whereas the auto bearing registration No.HR-46C-6994 was taken into police custody which has been shown to be involved in the accident. No explanation is forthcoming on record that if the different reregistration number of the auto was informed by the complainant then how the Investigating Officer has involved the other auto bearing registration No.HR-46C-6994 in the present case and due to this fact a serious dent is created in the prosecution version, benefit of which goes to the accused. PW5 complainant Bhim Singh has turned hostile and has failed to recognize the accused present in the court as the driver of the offending vehicle...”



10. Therefore, argument of learned counsel for the appellants that Bhim Singh had not made any statement to the effect that the accident in question had been caused by vehicle bearing registration No.HR-67-7468, is falsified. Even no proof has been produced by the claimants to show that respondent No.1 was driving the offending vehicle at the time of accident. Even in the proceedings under Section 174 Cr.P.C., Bhim Singh has made the statement that he has given the registration number of the offending vehicle as HR-67-7468. From the above facts, involvement of the offending vehicle in the accident in question is not proven.

11. Before parting it may be pointed out that an application bearing CM-13599-CII-2018 has been moved by the appellants under Order 41 Rule 27 read with Section 151 CPC and Section 63 of the Indian Evidence Act for placing on record Annexures A1 to A3 and to be read as additional evidence as well as secondary evidence. However, the said documents are rendered irrelevant in view of the judgment of acquittal dated 26.02.2018.

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

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

23.07.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No