IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

251 **FAO-5174-2016 (O & M)**
Date of decision:10.02.2025

AJODH SINGH @ JODH SINGH AND ANR. ...APPELLANTS

VS.

KASHMIR KAUR AND ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. S.S. Rangi, Advocate,
Ms. Sukhanpreet Kaur Rangi, Advocate &
Mr. Fateh Sahota, Advocate
for the appellants.

Mr. Neeraj Yadav, Advocate
for the respondents.

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SUVIR SEHGAL, J.

1. Assailing award dated 12.04.2016 passed by the Motor Accident Claims Tribunal, Amritsar (for short "the Tribunal"), the owner and driver of the offending vehicle have filed the instant appeal under Section 173 of the Motor Vehicles Act, 1988, (for short "MV Act"). Alongwith the appeal, appellants have filed an application (CM-17636-CII-2016) under Order 41 Rule 27 CPC for permitting them to lead additional evidence by bringing on record a certified copy of the cancellation report dated 16.09.2015 as Annexure A-1.

2. Counsel for the appellants have argued that there was no evidence before the Tribunal to arrive at the conclusion that the offending

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vehicle was being rashly driven by appellant No.1. Placing reliance upon the cancellation report dated 16.09.2015, it has been contended that criminal case registered against the driver of the offending vehicle was investigated and a cancellation report was prepared, which was not produced before the Tribunal. Counsel has also asserted that the compensation awarded by the Tribunal is on the higher side.

3. Per contra, counsel for the respondents has opposed the appeal and has supported the award passed by the Tribunal.

4. I have heard counsel for the parties and considered their respective submission besides examining the requisitioned record.

5. Claimants/respondents No.1 to 3 filed a petition under Section 166 of MV Act for grant of compensation of Rs.60 lacs on account of death of Balwinder Singh. It was averred that after discharging his duties as Government teacher in the Government High School in Muradpura on 09.09.2013, Balwinder Singh was returning home on Activa scooter when a tractor trolley bearing registration No.PB-09-Q-8002 being rashly driven by appellant No.1, hit the scooter resulting in his death. Information about the accident was immediately given to the police, but they did not register the FIR. After inquiring into the complaint submitted by the widow to superior police officials, an FIR was eventually registered on 28.03.2015 under Sections 279 and 304-A IPC. Claim petition was contested by the appellants on the ground that no accident had taken place and a false FIR has been registered after an unexplained delay. Tribunal framed issues on the pleadings of the parties and by impugned award came to the conclusion that Balwinder Singh expired as a result of the rash and negligent driving of

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appellant No.1. Finding that the claimants were dependent upon the deceased, they were held entitled to compensation of Rs.54,17,812/- to be paid in equal share by the appellants alongwith interest @ 8% per annum from the date of filing of the claim petition.

6. To support their case, claimants examined Kulwant Singh, PW3, brother-in-law of the deceased, who was an eye witness to the accident. He deposed that he was following his brother-in-law on another scooter and at about 2.00 PM, when they reached Meeran Kot Chowk, the offending tractor, which was being negligently driven by appellant No.1 hit the Activa scooter. The tractor trolley was fitted with a deck and the driver was playing music at a high volume. This witness withstood extensive cross-examination, but his testimony remained unshaken. Record was also produced from the police authorities, which shows that a complaint was immediately lodged, but as a compromise took place between the driver and the legal representatives of the deceased and a cancellation report was submitted. However, the cancellation report was not accepted and after enquiry, it was recommended that a challan under Section 279/304-A, IPC be presented against the accused. The delay in the registration of the criminal case against the driver of the offending vehicle stood duly explained. In ***Ravi Vs. Badrinarayan and others, (2011) 4 SCC 693***, Supreme Court has held that the registration of a criminal case proves the factum of the accident and the delay in itself cannot be a ground for rejection of the claim petition.

7. In her testimony, Kashmir Kaur, PW-1, widow, has produced the medical record, which amplifies that the deceased remained admitted at

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Janta Hospital from 09.09.2013 to 10.09.2013; Ranjit Randhawa Hospital from 10.09.2013 to 21.10.2013 and Guru Nanak Dev Hospital upto 21.12.2013 and he was then admitted in Amandeep Hospital, Amritsar on 22.12.2023, where he expired on 27.12.2013 due to the injuries sustained by him in the accident. Perusal of the certificate (Ex.P7) issued by Amandeep Hospital shows that Balwinder Singh was found to be suffering from Cx-spine injury and had a bed sore with septicemia, which was the cause of his death. When the entire evidence led by the claimant is read cumulatively, it establishes beyond any doubt, that the death of Balwinder Singh had occurred as a result of injuries sustained by him in the motor accident.

8. Insofar as the cancellation report, Annexure A-1, is concerned, suffice is to observe and notice that besides the FIR, the MACT has relied upon the evidence led by the claimants. PW-3, Kulwant Singh, eye witness has proved the factum of the accident. Tribunal has independently analyzed the evidence produced before it and did not return the finding by solely relying upon the allegations in the FIR. In ***Asha Devi Vs. Manoj Kumar, CREF-1-2007 decided on 11.12.2008***, this Court observed that the claimants have no control over the functioning of the investigating agency. If the investigating agency fails to collect enough incriminating material and submit a report under Section 173, Cr.P.C., to get the accused-driver charge-sheeted, cause of the claimants cannot be defeated. Therefore, no reliance can be placed on the cancellation report, Annexure A-1, even if it is permitted to be adduced by way of additional evidence.

9. In her testimony, Kashmir Kaur, PW-1, has deposed that her husband was a permanent employee and getting salary from a government

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educational institute. Salary certificate, issued by the competent authority, has been exhibited as Ex.P6. He had three dependents and was 53 years of age at the time of his death. The service record of the deceased has been proved on the record by Amarjit Kaur, PW-2, Assistant Junior Clerk, Government High School, Muradpura, which shows that he was employed as a Hindi teacher and his date of birth was 07.09.1960. He was drawing a monthly salary of Rs.55,753/-. The service book of the deceased and the attested copies of his salary bills have been exhibited as Ex.P8 to Ex.P10. Tribunal calculated and deducted the income tax payable by the deceased from his annual income. After making a deduction of 1/3rd on account of his personal expenses and applying a multiplier of 11, besides passing an award under the conventional heads, the Tribunal awarded an amount of Rs.54,17,812/- to the claimants alongwith interest. Tribunal has not made any award for the future prospects of the deceased. The award has been passed on the basis of guidelines laid down by the Supreme Court in ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, (2009) 6 SCC 121*** and ***National Insurance Company Ltd. v. Pranay Sethi and others, (2017) 16 SCC 680.*** This Court does not find any error or infirmity in the award passed by the Tribunal.

10. Finding no merit in the appeal, it is dismissed with no order as to costs.

11. As the main appeal has been decided, pending application shall also stand disposed off.

10.02.2025 **(SUVIR SEHGAL)**
sheetal **JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No

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