

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****227****FAO-8232-2014(O&M)**
Date of decision: 25.08.2025**Sandeep****...Appellant(s)****Vs.****Karambir @ Kala & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:-** Mr. Amit Kumar Goyal, Advocate
for the appellant.Ms. Manvi Verma, Advocate for
Mr. Rajneesh Malhotra, Advocate
for respondent No.3-Insurance Company*********NIDHI GUPTA, J.**

Present appeal has been filed by the injured-claimant against the dismissal of his Claim Petition by the Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as 'the learned Tribunal') vide Award dated 28.05.2014 passed in MACT case No.41 dated 21.12.2012 filed under Section 166 of the Motor Vehicles Act (hereinafter referred to as "the Act").

2. The pleaded case of the appellant before the learned Tribunal as recorded in para 2 of the impugned Award is that: -

"2. The brief facts of the claimant's case are that on 23.5.2011, petitioner alongwith his friend Rinku son of Sh. Ram Mehar



was going to Sonapat on scooter bearing No. HR-10B-5965, which was being driven by his friend Rinku at a very normal speed and when they reached near Badwasani village Alisha restaurant, one Eicher Canter bearing No. HR-69-1334(hereinafter referred to as the offending vehicle), being driven by respondent No.1 in a very rash and negligent manner, came on the road and hit the scooter at the rear, due to which the scooter driver and pillion rider fell down and received injuries on their persons. That the injured were taken to Bharat Hospital in the offending vehicle alongwith some people of village Machhari. It is further averred that the father of the petitioner had taken the injured to Govt. Hospital, Sonapat and he was referred to PGIMS, Rohtak/Trauma Hospital, Delhi, but his father took him to Garg Hospital, Delhi. It is further averred that petitioner is about 21 years old and suffered fracture of both bones, left leg with compartment, syndrome (impending) CPN Paresis etc. That petitioner paid a sum of Rs.1 lac approximately on 1.6.2011 when he was discharged from the hospital and also spent a sum of Rs. 2,50,000/- on transportation, special diet and medical expenses, OPD expenses etc.”

3. The Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties held that there was no evidence on record to establish that the accident in question had been caused by the alleged offending vehicle as the appellant had failed to establish that the aforesaid vehicle in question, was the offending vehicle.



4. Learned counsel for the appellant assails the impugned Award by submitting that in dismissing the Claim Petition, the learned Tribunal lost sight of the fact that in the accident in question, the appellant had suffered fracture of both bones, left leg compartment, syndrome CPN paresis etc. and that the appellant had spent a huge amount on transportation, special diet, other medical expenses, etc. The appellant had remained admitted in hospital for many days. When the appellant came out of the trauma of the accident, the matter was reported to the Police and case was registered against the offending vehicle. Learned Tribunal failed to appreciate that even FIR had been registered against the driver of the offending vehicle and challan had been presented. However all the overwhelming evidence has been misread and misconstrued by the learned Tribunal.

5. In dismissing the Claim Petition, the learned Tribunal has ignored the established tenet of law that MACT proceedings are summary in nature and have to be decided on the preponderance of probabilities. Moreover, claimant is a poor person and has lost his earning capabilities due to the accident in question. Learned counsel accordingly prays for setting aside of the impugned Award. In support of his contentions, learned counsel relies upon judgment of this Court in **Girdhari Lal v. Radhey Shyam, (P&H) : Law Finder Doc ID # 70793.**

6. No other argument is made on behalf of the appellant.



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

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

8. Admittedly, the accident in question had taken place on 23.05.2011; whereas FIR had been registered on 06.06.2011 i.e. almost 20 days after the occurrence. There is no denying or disputing the law as laid down by the Hon'ble Supreme Court that mere delay in registration of the FIR does not constitute sufficient ground for dismissal of the Claim Petition. However, in the present case, there are other glaring factors which establish that the impugned Award suffers from no error.

9. The accident had taken place on 23.05.2011. Report under Section 173 Cr.P.C. (Ex.PW1/H) shows that after receiving information in respect of the accident, the Police had reached the General Hospital, Sonipat where the appellant was admitted. The Police had duly received the Ruqa and the MLR. However, what is important to note is that it is recorded in the report under Section 173 Cr.P.C. that when the police had reached the hospital on 23.5.2011, the attending doctor had declared the appellant fit to make the statement; and it is the appellant who had refused to take any action. Further, admittedly the appellant was discharged from the hospital on 01.06.2011; yet FIR (Ex.PW1/G) was registered only on 06.06.2011. There is no explanation given by the appellant explaining the said delay. Even further, there is no explanation as to why the alleged eyewitness Rinku, friend of the appellant, who was accompanying him at the time of accident, did not



report the accident and as to why number of the offending vehicle was not disclosed by Rinku to the Police when they visited the appellant in the hospital. Further it has also been admitted by the appellant that the respondent No.1/driver of the offending vehicle was known to the appellant as he belonged to his village; and that respondent No.1 had accompanied the appellant to the hospital after the accident along with other people of the village. However, none of these persons have been examined to establish the case of the appellant. In fact, even alleged eyewitness Rinku has not been examined by the appellant. No doubt, Claim Petitions have to be examined on the preponderance of probabilities, however, the claimant has to establish at least the bare factum of the involvement of the alleged offending vehicle. The claimant has also failed to disclose to the Police that he already knew respondent No.1 as they were from the same village. This would indicate that respondent No.1 had been falsely implicated in the case merely to procure the compensation; and that the appellant had involved the offending vehicle falsely after due deliberation merely to procure the compensation.

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

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

25.08.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No