

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****237****FAO-2879-2018 (O&M)****Date of Decision : 17.01.2025**

Kamla and Another

....Appellants

VERSUS

Ali Hasan and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashwani Arora, Advocate and
Mr. Vipul Sharma, Advocate for the appellants.

None for respondent Nos.1 and 2.

Ms. Manvi Verma, Advocate for
Mr. Rajneesh Malhotra, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the claimant-appellants challenging the award dated 13.11.2017 passed by the Motor Accident Claims Tribunal, Chandigarh whereby the claim petition filed by them has been dismissed only on the ground that the author of the FIR was not examined.

2. Learned counsel for the claimant-appellants would contend that PW-4 Ranjeet Singh, one of the eye-witnesses of the accident, stepped into the witness-box and clearly stated that he had witnessed the accident. It is further the contention that the said witness was put through a lengthy cross-examination, however, nothing could be elicited to show that he was not present at the spot at the time of the accident. It has further been contended

that merely because the eye-witness was not the author of the FIR would not mean that he was not an eye-witness.

3. None has put in appearance on behalf of respondent Nos.1 and 2, despite service.

4. *Per contra* learned counsel for respondent No.3-Insurance Company would contend that PW-4 was not present at the time of accident and was not an eye-witness of the accident and that there was another eye-witness, who was not examined. It is further the contention that even the author of the FIR was not examined.

5. Heard.

6. In the present case, PW-4 Ranjeet Singh, who was one of the eye-witnesses, stepped into the witness-box and clearly stated that he had witnessed the accident and that the motorcycle of the deceased was bearing registration No.CH-03-W-2830 and the offending vehicle bearing registration No.HR-68-B-0289 hit/struck against the aforesaid motorcycle. He was subjected to a lengthy cross-examination however his testimony could not be shaken. The argument of learned counsel for respondent No.3-Insurance Company that the other witness to the accident, namely, Sarvesh Kumar, whose statement was recorded by the Police under Section 161 CrPC, was not examined deserves to be rejected on the ground that PW-2 SI Hukam Singh clearly stated that the said witness belongs to U.P. and he was living in a rented accommodation and his whereabouts were not known. Hence, merely because the said witness was not examined would not be a reason to disbelieve the testimony of PW-4. Further still, there is not an iota

of evidence to show that there was any reason to disbelieve the statement of PW-4.

7. Further mere delay in introducing the registration number of the offending vehicle and the name of the driver in the case is not fatal in the matter. Hon'ble Supreme Court in the case of **Ravi vs. Badrinarayan & Ors. [2011(2) RCR (Civil) 190]** has held as under :

“21. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR certainly proves 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 other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance

than delay in lodging thereof supported by cogent reasons.”

8. In view of the above, the impugned award dated 13.11.2017 cannot be sustained and the same stands set aside. The matter is remanded to the successor Presiding Officer of the Tribunal concerned for a decision afresh on merits in accordance with law. The parties to appear before the Tribunal concerned on **03.02.2025** at **10.00 am**.

9. Present appeal is disposed off in the above terms. Pending applications, if any, also stand disposed off.

17.01.2025
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO