**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****121****FAO-4269-2024 (O&M)****Date of decision: 27.03.2025****Tata AIG General Insurance Co. Ltd.****...Appellant(s)****Vs.****Babli and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Vishal Aggarwal, Advocate
for the appellant.

*********NIDHI GUPTA, J.****CM-5023-CII-2025**

This is an application under Section 151 CPC for placing on record the documents as Annexures A-1 to A-4.

Heard.

Application is allowed and the documents are taken on record as Annexures A-1 to A-4, subject to all just exceptions. Registry is directed to tag the same at appropriate place.

FAO-4269-2024 (O&M)

The present appeal has been filed by the Insurance Company laying challenge to the Award dated 09.07.2024 passed by the learned Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as "the Tribunal") whereby the claim petition bearing No. 187 dated 19.04.2019 filed by the claimants/respondent No.1 and 2 herein, under Sections 166 and 140 of the Motor Vehicles Act, 1988 (hereinafter



referred to as “the Act”), has been partly allowed with costs; and the claimants have been granted compensation of Rs.15,14,000/-. The two claimants are the parents of the deceased Manu @ Vikram.

2. Brief facts of the case are that the learned Tribunal on the basis of the pleadings and the evidence adduced before it, concluded that the deceased Manu @ Vikram had died due to the injuries suffered by him in a Motor Vehicular Accident that took place on 01.02.2019 due to the rash and negligent driving of a Pick Up bearing registration No. HR-58B-5461 (hereinafter referred to as ‘the offending vehicle’) which was being driven by respondent No.3; owned by respondent No.4; and insured by the appellant herein. The above said compensation was awarded along with interest @ 6% per annum from the date of filing of the claim petition till final realization.

3. Learned counsel for the appellant-Insurance Company submits that the appellant is not liable to pay compensation to the claimants as the offending vehicle is not connected with the accident in question. Learned counsel submits that the date of accident is 01.02.2019. On 07.02.2019, the claimant had filed a missing person report against the deceased in pursuance to which, an FIR came to be registered on 22.02.2019. It is submitted that the claimants have been unable to establish as to how the offending vehicle is connected with the accident in question.

4. Learned counsel contends that it has been stated by the complainant/father of the deceased that one Pradhan had told him the



number of the offending vehicle. However, the said Pradhan has not been examined. Further, in identifying the offending vehicle, learned Tribunal has placed reliance upon the testimony of a legend eyewitness PW2 Gurdayal Singh who was stated to be working at petrol pump close to the place of the accident. In this regard, learned counsel refers to the cross-examination of Gurdayal Singh (Annexure A-3); wherein he had admitted that he did not get any FIR registered regarding the accident; that he did not remember the names of the persons who were present at the time of accident; and that he did not dial 100 No. PW2 further admitted that police has not reached in his presence; that he could not tell the name of the deceased; that statement of PW2 was recorded by the police 20 days after the accident at petrol pump but he did not remember the exact date. It is submitted that accordingly the offending vehicle has been wrongly involved in the accident in question.

5. No other argument is raised on behalf of the appellant.

6. I have heard learned counsel for the appellant and perused the case file in great detail.

7. I find no merit in the submissions made on behalf of the appellant. No doubt, Pradhan was not examined before learned Tribunal however, the evidence of eyewitness PW2 Gurdayal Singh is undisputed. PW2 has categorically stated in his testimony, that he was the Manager at the petrol pump which was situated at about 20 paces away from the spot of occurrence of accident. PW2 has further stated as follows: -

"I accompanied the injured to CHC, Ladwa. We went to CHC, Ladwa in vehicle of respondent no. 1. I told the registration

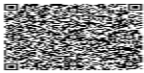


number of the offending vehicle to IO and not disclosed the name of respondent no. 1. It is correct that there PHC in village Gudha. I did not check the bag of deceased. I do not know the name of deceased at the time of accident."

8. Thus, from the above said unrefuted testimony of PW2, it is established that the number offending vehicle was disclosed by witness Gurdyal Singh. Thus, involvement of the pending vehicle in the accident in question stands proven. The argument of the appellant is misconceived being based on a piecemeal reading of the testimony of PW2.

9. A further reading of the testimony of PW2 reveals that PW2 in his examination-in-chief has categorically deposed that he had witnessed the accident in question; that the offending vehicle was being driven by the respondent No.1 in a rash and negligent manner without observing the necessary traffic rules; that the respondent No.1 had hit the offending vehicle with the motorcycle of the deceased. In his cross-examination, PW2 has again categorically deposed that respondent No.1 had disclosed his name to PW2 at the Civil Hospital at Ladwa.

10. It has further been stated by learned counsel for the appellant that the FIR was registered after a delay of more than 20 days on 22.02.2019. However, the said fact is factually incorrect as the perusal of the record reveals that in the first instance, a missing person report/FIR No. 52 dated 07.02.2019 was registered under Section 346 IPC at Police Station Sadar Thanesar Ex.P1; whereafter the FIR No. 55 dated 22.02.2019 Ex.P5 was registered under Sections 279, 304A IPC at



Police Station, Ladwa relating to the accident in question. It is to be appreciated that as stated by the claimants in the claim petition, they had initially searched for their missing son and it is only when he was not traceable that the first FIR came to be filed. Subsequently upon his death, the second FIR came to be registered. Even in the chargesheet under Section 173 Cr.P.C. (Ex.P3) in case FIR No. 55 dated 22.02.2019 involvement of offending vehicle is recorded. As such, there can be no ambiguity with regard to the involvement of the offending vehicle.

- 11. No argument has been made by learned council for the appellant, in respect of the quantum of compensation payable.
- 12. In view of the above, no ground is made out to interfere in the impugned Award.
- 13. The present appeal is hereby **dismissed**.
- 14. Pending application(s) if any also stand(s) disposed of.

27.03.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No