



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

211

FAO-8306-2017 (O&M)

Date of decision: 25.04.2025

Smt. Sanju Singh and others

...Appellant(s)

Vs.

Dilbag Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Tanuj Goyal (Tohana), Advocate for
Mr. Munish Kumar Garg, Advocate
for the appellants.

Mr. Parunjeet Singh, Advocate for
respondent No.1.

Mr. N.K.Manchanda, Advocate for
respondent No.3.

NIDHI GUPTA, J.

CM-27288-CII-2017

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 28 days in filing the accompanying appeal.

Heard.

For the reasons mentioned in the application which is supported by an affidavit of the applicant/appellant No.1, the same is allowed and delay of 28 days in filing the accompanying appeal is condoned.

**FAO-8306-2017 (O&M)**

The present appeal has been filed by the claimants challenging the Award dated 07.04.2017 passed by the Motor Accident Claims Tribunal, Fatehabad (hereinafter referred to as 'the Tribunal') whereby the claim petition bearing No. 56 dated 30.09.2015 filed by the appellants under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), has been dismissed. The 3 claimants are the widow; and two sons aged 17 and 16 years old, of the deceased Sunil Kumar Singh. Mother of the deceased Sunil Kumar Singh was impleaded as perma respondent No.4.

2. Brief facts of the case as set out by the appellants in their claim petition are that on 17.12.2014, deceased Sunil Kumar along with one Abhishek and Gurcharan Singh was coming to Tohana from Hisar after lifting milk in a vehicle No. HR-39/4428. The said vehicle No. HR-39/4428 was being driven by Gurcharan Singh. It was further pleaded that at about 3:00 p.m., when they reached near Chitain road, Tehsil Tohana, District Fatehabad, the vehicle No.PB-13N/3261 (hereinafter referred to as "the alleged offending vehicle") which was being driven by respondent No.1 Dilbag Singh in a rash and negligent manner caused the accident in question. The alleged offending vehicle was owned by respondent No.2 and insured by respondent No.3. It was further pleaded that after causing the accident, respondent No.1 fled from the spot leaving the alleged offending vehicle there. It was pleaded in the claim petition that police had obtain signatures of Abhishek on blank papers and changed original statement



made by Abhishek in connivance with respondent No.1. In the accident in question, Abhishek and Sunil had received injuries and Gurcharan Singh had succumbed to his injuries at the spot. Condition of deceased Sunil was serious, and he was referred to higher medical hospital for further treatment whereafter, he was admitted in N.C. Jindal Institute of Medical Care and Research, Model Town, Hisar on 17.12.2014. A sum of Rs. 4,50,000/- was spent on the treatment of Sunil. However, he expired on 26.12.2014 due to the injuries received by him in the accident. The accident was caused by respondent No.1. As such, respondents were liable to pay the compensation.

3. It was further pleaded that the deceased was 36 years old at the time of accident, and he was working as labourer at Sach Milk Dairy, Tohana and was earning Rs.3,000/- per month. The claimants were dependent upon him. As such, compensation of Rs.15 lacs was sought in the claim petition.

4. Learned Tribunal on the basis of the pleadings and evidence adduced before it, came to the conclusion that accident in question was not caused due to the rash and negligent driving of the alleged offending vehicle. Accordingly, claim petition of the appellants was dismissed.

5. It is *inter alia* submitted by learned counsel for the appellants that the learned Tribunal was in patent error in dismissing the claim petition as it had failed to appreciate that FIR (Ex.P1) was registered on the basis of the statement made by eyewitness Abhishek. Said eyewitness, Abhishek had also appeared as PW5 before the learned Tribunal and had categorically



stated that the accident in question had taken place due to the rash and negligent driving of the alleged offending vehicle by respondent No.1, which had resulted in death of Sunil Kumar. It is contended that accordingly in view of the categorical averments made in the claim petition; as also the testimony of eyewitness PW5, the claim petition could not have been dismissed.

6. It is further submitted that the learned Tribunal was in error in ignoring the categorical assertion of the claimants that signature of eyewitness Abhishek was taken by the police on blank papers; and it was only on 18.03.2015 that this fact came to the knowledge of Abhishek that the police had changed his original statement. Accordingly, Abhishek had submitted applications to the SP, Hisar, and other higher authorities which were duly brought on record by the claimants as Ex.P110 to Ex.P114. However, these facts have not been considered by the learned Tribunal. It is further submitted that the claimants had produced other cogent oral and documentary evidence in support of their case in the form of testimony of PW1/ claimant No.1/widow of the deceased Sunil, who had tendered her affidavit Ex.PW1/A in which she had reiterated the case as set out in the claim petition. Moreover, learned Tribunal has also failed to appreciate that the claimants were entirely dependent on the deceased. It is accordingly prayed that the present appeal be allowed; and the impugned Award be set aside.

7. *Per contra*, learned counsel for respondent No.1 and respondent No.3 oppose prayer made on behalf of the appellants and



submit that impugned Award suffers from no error whatsoever. It is submitted that there is a direct contradiction in the case as put forth by the eyewitness before the learned Tribunal and as narrated by him in the FIR. It is submitted that the alleged offending vehicle has been falsely implicated in the accident in question. It is accordingly prayed that the present appeal be dismissed.

8. No other argument is raised on behalf of the appellants.

9. I have heard learned counsel for the parties and perused the case file in great detail.

10. I find no merit in the arguments advanced on behalf of the appellants. No doubt, in a claim petition under Section 163-A of the Act, the only requirement is to prove the involvement of the alleged offending vehicle in the accident in question. However, it is to be appreciated that after the accident had taken place on 17.12.2014, eyewitness Abhishek had got registered FIR No. 247 dated 18.12.2014 under Sections 279/304-A IPC against driver Gurcharan Singh who was driving the vehicle No. HR-39/4428 in which the deceased Sunil Kumar was riding along with Abhishek and Gurcharan Singh. In his statement/complaint, Abhishek had categorically stated that the accident was caused as driver Gurcharan Singh lost his control on the vehicle No. HR-39/4428 and struck into the alleged offending Cargo vehicle bearing registration No. PB-13N/3261.

11. However, in the claim petition filed on 30.9.2015, a totally different version of events has been given by the claimants, and Abhishek in his testimony as PW5. It has now been stated that the accident in question



was caused due to the rash and negligent driving of the alleged offending vehicle by respondent no.1. The case as pleaded by the appellants in the claim petition has already been noticed above. Thus, the facts as put forth by Abhishek in the FIR are totally at variance to what has been subsequently pleaded in the claim petition; and also, in the evidence of the claimants and eyewitness PW5.

12. It is not disputed by learned counsel for the appellants that in the FIR, it was a clear statement made by the complainant Abhishek/PW5 that at about 3:00 p.m., when the deceased Sunil along with Abhishek and Gurcharan Singh, who was driving vehicle No. HR-39/4428, had reached near Chitain road, driver Gurcharan Singh had lost his control on vehicle No. HR-39/4428 and had hit his vehicle against the alleged offending vehicle No. PB-13N/3261, which was coming from the front side; due to which Gurcharan Singh had died at the spot, while Sunil and Abhishek had received injuries. It was for this reason that Abhishek had got registered the FIR against Gurcharan Singh and not against respondent No.1; and in the FIR, it has been clearly mentioned that accident had been caused due to the rash and negligent driving of Gurcharan Singh by his vehicle No. HR-39/4428.

13. From the above facts, it is clear that the claimants, as also Abhishek PW5 have taken a complete U-turn from the case as previously set out by them. Even the fact that Abhishek had subsequently moved applications Ex.P110 to Ex.P114 does not inspire the confidence of this Court as, PW5, the star witness of the occurrence has taken different stand



at different points of time. Therefore, his statements cannot be believed. Moreover, the above said applications Ex.P110 to Ex.P114, have been moved almost one year after the occurrence. Therefore, the said applications are clearly an after-thought. Even claim petition has been filed on 30.09.2015; whereas the date of accident is 17.12.2014 and Sunil had expired on 26.12.2014. It would, therefore, appear that the claim petition and the changed/improved version of events as stated by the claimants and PW5 are an after-thought with the motive to get compensation. It was for this reason that the learned Tribunal had dismissed the claim petition of the appellants.

14. Learned counsel for the appellants is unable to dispute or controvert the above said facts and findings of the learned Tribunal.
15. In view of the above, present appeal is hereby **dismissed**.
16. Pending application(s) if any also stand(s) disposed of.

25.04.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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