

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****120****FAO-6752-2019 (O&M)****Date of decision: 03.09.2025****Sushma and others****...Appellant(s)****Vs.****Jai Vindra Kumar Sharma @ Jai Vindra Sharma
and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Abhishek Pundir, Advocate for
Mr. Mohan Singh Rana, Advocate
for the appellants.

Mr. Gurqurban Singh, Advocate for
Mr. Vishal Aggarwal, Advocate for
respondent No.4-Insurance Co.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants against dismissal of their claim petition by the learned Motor Accident Claims Tribunal, Gurugram (hereinafter "the learned Tribunal") vide Award dated 21.08.2019 passed in MACT Case No.43 dated 31.05.2018 filed under Section 166 of the Motor Vehicles Act, (hereinafter "the Act"). The 5 claimants are the widow, 2 minor children, and parents of deceased Anil.

2. The case pleaded by the appellants in their claim petition is that on 8.6.2016 around 4.00 p.m. deceased Anil was going on his motor cycle from Pataudi to his house and when he reached ahead of village Rampura, in the meantime, a car bearing registration No.HR-26BA-3744 (hereinafter 'the offending vehicle') being driven by respondent No.1 in a



rash and negligent manner and at a very high speed came from village Jataula and directly hit the motor cycle of Anil, since deceased, and sped away from the spot. Anil fell down on the side along with his motorcycle. Complainant Pawan noted down the registration number of the alleged offending vehicle as HR-26BA-3744. Thereafter, he managed a private vehicle and shifted injured to Lotus Hospital, Gurugram, where after first aid he was shifted to Ram Manohar Lohia Hospital, New Delhi. He informed the family members of injured and on his statement FIR No. 349 dated 5.9.2016 was registered at Police Station Pataudi, Gurugram for commission of offences punishable under Sections 279,304A of Indian Penal Code.

3. It was further pleaded that the deceased at the time of death was 35 years of age. He was working as Field Assistant Packet with M/s Primo Integrated Service Pvt. Ltd, New Delhi on monthly salary of Rs.15,665/-plus over time. He was sole bread earner of the family, but due to his untimely death, the claimants have suffered great mental shock, agony, financial loss as now they have no source of income. An amount of Rs.6 lac is claimed to have spent on the treatment and last rites of the deceased. It is, therefore, prayed that a compensation to the tune of Rs.50 lac be awarded along with interest @ 18% p.a.

4. Learned Tribunal upon appraisal of the pleadings as well as oral and documentary evidence adduced by the parties, concluded that the appellants had failed to prove the involvement of the alleged



offending vehicle in causing the accident dated 08.06.2016. Hence, had dismissed the claim petition.

5. Before proceeding further with the case, it may first be pointed out that the present Appeal is of the year 2019. However, notice has not yet been issued in the same, as the matter was first listed on 09.11.2022 on which date, it was adjourned at request of learned proxy counsel for the appellants. Thereafter, matter was listed yesterday i.e. 02.09.2025; whereupon in the first round, none had appeared on behalf of the appellants. In the second round also, as none had appeared and as matter was of 2019, this Court had heard learned counsel for respondent No. 4 and dismissed the Appeal. However, subsequently, upon request made by learned proxy counsel for the appellants the matter was adjourned to today purely to accommodate the learned arguing counsel. However, even today request for adjournment has been made by learned proxy counsel for the appellants. The matter was passed over in the first round. However, even in the second round, it is stated that arguing counsel is not available as he is unable to come because of heavy rain showers. Learned proxy counsel appearing on behalf of the appellants has further refused to address arguments on merits and further stated that learned arguing counsel cannot join the Court proceedings through VC also. Given the fact that the present Appeal is of the year 2019 and has been pending since 6 years, this Court is not inclined to accede the request of an adjournment made by learned proxy counsel for the appellants.



6. In view of the same, this Court has gone through the case file in detail with the able assistance of learned counsel representing respondent No.4-Insurance Co. who is appearing on advance notice.

7. The Grounds of Appeal reveal that challenge to the impugned Award has been made on the following grounds that: -

(1) It has been averred in para 5 of the Grounds of Appeal that to prove their case, appellants had examined appellant No.1-Sushma/widow of the deceased as PW5; eye witness Pawan as PW1; Constable Ram Avtar as PW2; Mohit Sharma as PW3; Amit Gupta PW4. Appellants had also produced documentary evidence Ex.P12 to Ex.P19; along with bills/cash memos Ex.P20 to Ex.P25; Ex.P28 to Ex.P30; copies of site plan; recovery memos; notice under Section 133 of Motor Vehicle Act et cetera had been produced as Ex.P31 to Ex.P40. It has been contended that learned Tribunal without appreciating evidence on record, has dismissed the claim petition.

(2) In para 8 of Grounds of Appeal, it is averred as follows:-

“8. That the Ld. Tribunal erred in law while dismissing the claim petition of the appellant without appreciating this material fact that PW1 Pawan was an eye-witness and he got lodged the FIR. This witness duly proved the accident and has corroborated recording of FIR. He specifically stated that he had witnessed the accident, wherein deceased Anil was being hit by vehicle bearing registration No.HR-26BA-3744 being driven by respondent no.1 at a very high speed and in a rash and negligent manner. Thereafter he shifted the injured to Lotus Hospital as well as informed the family members of the deceased. However, in the MLR and ruqqa sent from Lotus



Hospital, name of Achint Kumar, brother of the deceased is recorded. It is natural that usually the name of family members was recorded in the MLR, if they remain present in the hospital and not the name of other person accompanied with the injured. Moreover, medical ruqqa Ex. P27 has duly proved that it has been received by ASI Satish from Police Station Pataudi. The stamp of hospital has also been the corroborated the version of the appellants. It has further submitted that the family members of the injured were moving from pillar to post for getting registration of FIR, but no FIR was registered, they had reported the DCP by moving complaint (Ex.PW1/B), wherein the registration number of the offending vehicle was disclosed. The deceased died in RML Hospital on 14.06.2016. In cross-examination PW1 has confirmed that he had met the police on 15.06.2016 i.e. after one week of the accident and moved an application to the police, but the police did not bother to investigate the matter properly. Thereafter, he again pursued the matter on 18.07.2016 by moving application Ex.PW1/B, however, the police had recorded the FIR on 5.9.2016. This witness Pawan (PW1) specifically submitted that the injured had sustained injuries due to rash and negligent driving of respondent no.1 on 8.6.2016 around 4:00 p.m. and he died on 14.06.2016 and during that period of one week, he remained unconscious as such his statement could not be recorded. So, the delay has occurred, which is neither intentional nor deliberate but due to the above mentioned constrained circumstances.”

8. It is also averred in the Appeal that in case offending vehicle was not involved in the accident, then respondents would have approached the concerned authorities for their false implication.



However, that has not been done. It is accordingly stated that the appellants had proved their case beyond reasonable doubt, and therefore, learned Tribunal was in error.

9. Learned counsel for respondent No.4 controverts the above averments and submits that there was unexplained delay of 88 days in registration of FIR by the appellants. It is submitted that the date of accident is 08.06.2016 at about 04:00 p.m.; whereas FIR No. 349 has been registered on dated 05.09.2016. It is further submitted that the alleged eyewitness Pawan has emerged about 1 ½ months after the accident. It is accordingly prayed that the impugned Award suffers from error and the present appeal be dismissed.

10. I have heard Id. Counsel and perused the case file in detail. I find no merit in the case put forth by the appellants.

11. It is undisputed fact on record that in respect of an accident dated 08.06.2016 at about 04:00 p.m., FIR No. 349 was registered 88 days later, on 05.09.2016. No explanation is forthcoming as to what occasioned the said inordinate delay in registration of the FIR. As noted above, a flimsy explanation is sought to be given as averred in para 8 of the Appeal that the delay of 88 days in registering the FIR was occasioned on account of the fact that the deceased had remained unconscious and had died on 14.6.2016, due to which his statement could not be recorded. However, in stating as above, the appellants have lost sight of the fact that it is also their case that the accident in question was witnessed by Pawan/PW1. No explanation has been given as to what stopped Pawan



from approaching the police immediately/soon after the accident. It has been contended that on 15.6.2016, Pawan went to the Police Station Pataudi and reported the matter to the police regarding the accident. However, there is no proof of the same and the said application has not been brought on record. A second application dated 18.7.2016 was moved almost 1 1/2 months after the accident - which supports the case of the respondents that the alleged eyewitness, Pawan had emerged 1 1/2 months after the occurrence. Needless to say, the above facts, cast shadow of doubt on the case put forth by the claimants.

such an act would lead to the conclusion that the offending vehicle has been planted and was not involved in the accident in question.

12. The falsity of the case of the appellants is further fortified from the MLR of the Lotus Hospital where the deceased was taken, where it is clearly mentioned that injured was hit by some unknown vehicle. Even type of vehicle or the involvement of the offending vehicle is not mentioned in the Medical Ruqqa Ex.P27. It is inexplicable that if, as stated by the appellants, Pawan had accompanied the injured and taken him to the hospital, then why was it mentioned in the MLR that injured was hit by some unknown vehicle; and why were details of the offending vehicle not provided by Pawan either for the MLR, or for the medical Ruka. In the MLR and the Medical Ruqqa sent from Lotus Hospital, name of the brother of the deceased is recorded. The Medical Ruqqa and MLR show that Achint Kumar, brother of the deceased had got him admitted in the



hospital and it is stated therein that the accident had been caused by unknown vehicle.

13. As noted above, the eyewitness PW1 Pawan has been introduced 1 ½ months after the occurrence, when Pawan has written a letter dated 18.7.2016 to DCP Ex.PW1/B mentioning the details of the offending vehicle. Even no reason has been given as to why Pawan was not produced previously before the Police Authorities or as to how appellants came to know about Pawan.

14. The above facts are indirect contradiction of the testimony of the alleged eyewitness PW1 Pawan, who has deposed that *“on 8.6.2016 around 4.00 p.m. he was going to village Jataula, for his personal work and a motor cycle was going in front of him. When he arrived ahead at Rampura village, the offending car bearing registration NO.HR-26-BA-3744 came from village Jataula side in a rash and negligent manner without following any traffic rules and hit the motor cycle of the deceased and ran away from the spot. The motor cyclist fell down on the road along with his motor cycle. He had noted down the registration number of the offending vehicle. Thereafter, he managed a private vehicle and shifted the injured to Lotus Hospital and also informed the family members of the injured and thereafter he came to know that Anil had died in the hospital on 14.6.2016 due to the injuries sustained by him in the above said accident.”*

15. Most importantly, PW1 Pawan has further deposed that *“..... while checking pocket of the injured, he found voter card and other*



documents of his identity and address proof of the injured and informed his family members after getting him admitted in the hospital. Thereafter he left away from the hospital.” It is incongruous that if PW1 had information regarding the offending vehicle then why was the said information not supplied to any family member of the injured or to the Police by PW1.

16. The most glaring discrepancy is that as per MLR of the Lotus Hospital, it was Achint, brother of the deceased, who had got him admitted in the hospital. However, in his statement recorded under Section 161 Cr.P.C., (Ex.P39) on 1.11.2017 i.e. one and a half year after the accident, Achint has nowhere stated as to who had informed them about the offending vehicle. Admittedly, Achint was not the eyewitness, then who else informed him about the accident.

17. The relevant findings of learned Tribunal as contained in para 24 and 25 of the impugned Award are as under: -

“24. Moreover, the accident was occurred on 08.06.2016 and in this case the FIR was got registered on 5.9.2016. So, there is delay of 88 days in registration of FIR. How, the offending vehicle has been involved has also not been clarified by non-examination of investigating officer. The MLR of Lotus Hospital also shows that the injured was hit by some unknown vehicle. Neither the type of vehicle nor about the informant of the offending vehicle does find mentioned in the medical ruqqa Ex.P27. However, it has been tried to convince that when the police did not register the FIR, so called eye witness Pawan wrote a letter to DCP Gurugram, which is Ex.PW1/B, wherein the name of offending vehicle



was find mentioned, but that information was given on 18.7.2016 i.e. after a period of about one and a half month. Therein also, it has not been disclosed to whom he had informed from the family members of the deceased about registration number of the offending vehicle and it is also very interesting to note that none of the family member had approached to the police for registration of FIR and some unrelated person was taking pain in moving application to the police for registration of FIR, rather why no efforts were being made to disclose about the offending vehicle at the time of getting admitted injured in the hospital and why unknown vehicle has been recorded in the MLR. This fact itself casted a serious doubt in the deposition of PWI Pawan. More so, after the accident neither he had informed the police nor dialed on number 100. In cross-examination he admitted that he never informed the legal heirs of the deceased through telephone, so to whom he had informed, he has not uttered any word. Therefore, the delay has not convincingly been explained.

25. *So far as involvement of the vehicle in question is concerned, the argument of the respondents are convincing that it is a hit and run case. The accident in question has been occurred by some unknown vehicle. Moreover, the offending vehicle has also been apprehended after a period of more than one and a half year. There was no mechanical examination report either of the motor cycle or of the alleged offending vehicle as to whether there was any collusion from front side between both the vehicles. As such, the deposition of PW1 Pawan in this regard is not convincing and the vehicle in question cannot be said to be involved in this case. There is no eye witness version. Nor there is any scientific evidence for connecting the accident with the vehicle in question.*



Therefore, the petitioners have failed to prove the involvement of the alleged offending vehicle for causing the accident.

In view of above discussion, Issues No.1&2 are hereby decided against the petitioners.”

18. In face of the above facts and findings, the only irresistible conclusion that can be drawn is that PW1 is a planted witness; and that the offending vehicle has been implicated in the case merely to get compensation.

19. Thus, no ground is made out to interfere in the impugned Award dated 21.08.2019. Accordingly, the present appeal is hereby **dismissed**.

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

03.09.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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