

FAO-5585-2022 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-5585-2022 (O&M)
Date of decision :07.08.2025

Deepika and others

...Appellants

Versus

Videsh and another

...Respondents

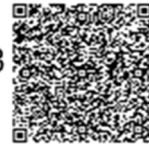
CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Ms. Komal Rana, Advocate,
for Mr. Abhimanyu Singh, Advocate,
for the appellants.

HARPREET KAUR JEEWAN, J. (Oral)

1. The appellant-claimants have preferred the present appeal, aggrieved against the dismissal of their claim petition by the Motor Accident Claims Tribunal, Bhiwani (*hereinafter referred to as 'the Tribunal'*), vide impugned Award dated 12.10.2022.

2. As per the brief facts, on 09.02.2018, Pritam and Sandeep (both since deceased) along with Krishan, Amit and Manoj (all injured) were returning to their Village Chang in a car bearing Registration No.HR-61C-8591 (which was being driven by Sandeep), after attending a marriage ceremony. At about 1.00 a.m., a canter bearing No.HR-61A-7635 (*hereinafter referred to as the 'offending vehicle'*), came from the opposite side, which was being driven by respondent No.1-Videsh, in a rash and negligent manner, and hit against the car. Resultantly, the driver of the car lost control over the vehicle; hit a *Kikkar* tree and fell into ditches. The occupants of the car sustained multiple injuries. The injured were taken to SPES Hospital, Bhiwani,



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where Pritam succumbed to the injuries on way to the hospital. Sandeep also died during treatment in the hospital. The accident was witnessed by Bir Singh son of Gaje Singh and Inderjeet son of Nihal Singh, who were also returning to their village after attending the marriage in a separate car. FIR bearing No.89 dated 10.02.2018 was registered at the instance of Bir Singh, under Sections 279, 337 and 304-A (Section 338 added subsequently) of the Indian Penal Code, 1860.

3. The appellants-claimants are the legal representatives of deceased-Sandeep. Respondent No.1 is alleged to be the driver & owner, whereas respondent No.2 is the insurer of the offending vehicle.

4. The claim petition was initially contested by the driver, but he did not file any written statement, as such, he was proceeded against *ex parte*. The Insurance Company-respondent No.2 contested the petition. Issues were framed. Both sides led evidence. Ultimately, the Tribunal disbelieved the version of the eyewitnesses and dismissed the petition.

5. Learned counsel for the appellants submits that Bir Singh and Inderjeet were the eyewitnesses to the accident in question. The appellants-claimants have led material evidence on record to prove that the accident took place due to rash and negligent driving by respondent No.1, but without considering the same, the petition has been dismissed. It is contended that proceedings before the Tribunal are in the nature of 'summary trial' and as such, minor discrepancies in the



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statements of the witnesses cannot be taken into consideration to oust the claimants.

6. I have considered the aforesaid submissions and perused the paper-book.

7. While dismissing the claim of the appellants, the Tribunal has discarded the testimony of the witnesses on the following grounds:-

- (i) Krishan-PW3, Amit-PW4 and Manoj-PW5 (all injured witnesses) testified during cross-examination that the offending vehicle had hit their car from behind, whereas, Bir Singh-PW6, at whose instance the FIR was lodged and another eyewitness, Inderjeet-PW8 had deposed that the offending vehicle struck against the car while coming from the opposite side.
- (ii) The registration number of the offending vehicle and the name of driver of the offending vehicle was not mentioned in the FIR, whereas, author of the FIR, Bir Singh-PW6 stated in his cross-examination that he had come to know about the offending vehicle and its driver next day in the morning, but the Tribunal observed that there is no explanation as to why he did not report the name of the driver and the registration number of the offending vehicle immediately to the Police, rather his supplementary statement-Ex.PW-11/F was recorded at a much belated stage on 20.03.2018.
- (iii) Inderjeet-PW8 did not disclose the registration number of the offending vehicle and the name of the driver in his first



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statement given to the Police at the General Hospital, Bhiwani.

- (iv) The Investigating Officer-HC Sanjay Kumar, PW11 never visited the place of occurrence, and he did not collect any evidence to prove the involvement of the offending vehicle in the accident. His investigation was merely based upon the testimony of Bir Singh-PW6 and Inderjeet-PW8.

8. Considering the aforesaid facts and circumstances, the Tribunal has disbelieved the testimony of the injured witnesses as well as the alleged eyewitnesses.

9. No doubt, while dealing with a claim petition under the Act, the mere fact that name of the driver and registration number of the offending vehicle have not been mentioned in the FIR, cannot be the sole ground for the Tribunal to disbelieve the evidence led by the appellants, however, in such circumstances, the evidence of the eyewitnesses is required to be cautiously scrutinized.

9.1 There were 03 injured witnesses who were travelling in the car along with the two other occupants who are since deceased, whereas 02 other eyewitnesses are stated to have been travelling in a separate car at the time of the alleged accident. The testimony of the witnesses who were travelling in the car is not matching with the testimony of the alleged eyewitnesses, who were travelling in a separate car and such discrepancies are on material points. One set of witnesses had stated that it was a head-on collision as the offending vehicle came from the opposite direction, whereas the second set of



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witnesses had stated that the offending truck struck against the car from back side.

9.2 In such circumstances, it was the bounden duty of the investigating officer to conduct spot investigation and to get the car examined from a Mechanical Expert and such mechanical examination report could have supported the testimony of either set of witnesses and the Tribunal would have been in a better position to ascertain as to whether the offending vehicle struck from the front side or from the back side. The testimony of HC Sanjay Kumar, PW11 is silent on this point. As per his version, he had only relied upon the statements of Bir Singh-PW6 and Inderjeet-PW8, i.e. their supplementary statements recorded during investigation. The Tribunal has rightly observed that there is unexplained delay as the author of the FIR has stated that he came to know about the registration number of the offending vehicle and the name of its driver on the next day of the accident, but he disclosed such important particulars to the police authorities after a period of 01 month and 10 days of the accident, while making supplementary statement.

10. The material contradictions in the testimony of eyewitnesses and the inordinate delay in disclosing particulars of the offending vehicle, which was allegedly involved in the accident, do not inspire confidence of the Court. Though, the standard of evidence required in proceedings before the Tribunal, which are summary inquiry, is much lower than the standard of evidence required in a criminal trial, however, the evidence led before the Tribunal must inspire confidence. Keeping in view the shaky nature of the evidence,



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the Tribunal has rightly rejected the testimony of the witnesses while dismissing the claim petition.

11. In view of the aforesaid reasons, no ground is made out to interfere with the findings arrived at by the Tribunal. Present appeal is devoid of any merits and is accordingly dismissed.

12. Pending application(s), if any, shall also stand disposed of.

07.08.2025

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**[HARPREET KAUR JEEWAN]
JUDGE**

Whether speaking / reasoned :

Yes

No

Whether Reportable :

Yes

No