

2025:PHHC:027546



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

**124**

**FAO-5009-2024 (O&M)**

**Date of Decision : 25.02.2025**

JOHN AND ANR

.... Appellants

VERSUS

BALJIT AND ORS

.... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. J.S. Thakur, Advocate for the appellants.

**ALKA SARIN, J. (ORAL)**

1. The present appeal has been preferred by the driver and the owner of the vehicle Activa bearing registration No.PB-08-DM-6042 aggrieved by the award dated 05.03.2019 passed by the Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal'). There is a delay of 1034 days in refiling and 133 days in filing the appeal.

2. Brief facts relevant to the present *lis* are that on 12.07.2018 at about 10:30 am the deceased, namely, Vinod Kumar was going from his house at Village Bambianwali to his shop on his Activa bearing registration No.PB-08-DP-6152. When he reached near the Roman Catholic Church, Bambianwal, Jalandhar an Activa bearing registration No.PB-08-DM-6042 (hereinafter referred to as 'the offending vehicle') which was being driven in a rash and negligent manner hit the Activa of the deceased from the side. As a result, the deceased fell on the road and suffered multiple injuries on his head. The deceased was taken to Johal Hospital, Rama Mandi by his brother

where his head surgery was conducted however he succumbed to his injuries. FIR No.121 dated 13.07.2018 under Sections 279, 337, 338, 427, 304-A Indian Penal Code, 1860 was registered at Police Station Sadar. The Tribunal on the basis of the pleadings and the evidence on the record held that the offending vehicle was being driven rashly and negligently and awarded an amount of ₹11,72,500 as compensation holding the driver and the owner of the offending vehicle liable to pay the same. Hence, the present appeal by the driver and the owner of the offending vehicle.

3. Learned counsel for the appellants would contend that there was no negligence on the part of the appellants and that the alleged eyewitness (PW-2), namely, Sarabjit Kumar was a planted one. It is further the contention that the said witness admitted in his cross-examination that he was not present at the spot.

4. Heard.

5. In the present case the claimant-respondents No.1 to 4 had approached the Tribunal averring in the claim petition that the offending vehicle had hit the Activa of the deceased. PW-1, namely, Baljit widow of the deceased – Vinod Kumar – had stepped into the witness box and had stated that the offending vehicle was being driven in a rash and negligent manner. Though she was not an eyewitness, however, not even a suggestion was given to the said witness that the offending vehicle was not being driven rashly and negligently. Further still, the rider of the offending vehicle namely John, who is appellant No.1 herein, had stepped into the witness box. In his cross-examination he clearly admitted that his Activa hit the

deceased who was riding his own Aactiva. It is an admitted case that the Aactiva was taken into custody at the spot by the Police. In view of the fact that there is a clear admission by appellant No.1 himself and also coupled with the fact that no suggestion was given to the wife of the deceased to the effect that it was not a case of rash and negligent driving, no fault can be found with the findings returned by the Tribunal concerned. There is also no cogent explanation forthcoming for the delay in refiling and filing the appeal.

6. In view of the above, I find no merit in the applications seeking condonation of delay in filing and in refiling as well as in the present appeal and the same being devoid of any merit are accordingly dismissed. Pending applications, if any, also stand disposed off.

**25.02.2025**

*Aman Jain*

**(ALKA SARIN)**  
**JUDGE**

*NOTE: Whether speaking/non-speaking: Speaking*  
*Whether reportable: Yes/No*