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

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Date of Order:-29.04.2025

United India Insurance Co. Ltd.

...Appellant

Versus

Suman and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

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

SUVIR SEHGAL, J.(ORAL)

CM-1210-CII-2025

1. For the reasons given in the application, it is allowed.
2. Delay of 37 days in filing of the appeal is condoned.

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3. Aggrieved of award dated 03.08.2024 passed by the Motor Accident Claims Tribunal, Narnaul (for short – 'the Tribunal') whereby claim petition preferred by respondents No.1 to 5 has been partly accepted, appellant/insurance company has approached the Court by way of instant appeal filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act').
4. Mr. Harsh Aggarwal, counsel for the appellant submits that respondents No.1 to 5 filed a claim petition under Section 166 of the MV Act claiming compensation on account of death of Shyam Sunder in a



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vehicular accident, which has been partly accepted by the Tribunal and an amount of Rs.23,72,000/- along with interest @ 6% per annum has been awarded against the appellant. He urges that there was a delay of one day in the registration of the FIR, which the claimants have failed to explain and the Tribunal has erred in placing reliance upon the testimony of Dharampal PW1, who was the brother of the deceased. He contends that the fitness certificate of the offending vehicle was never produced and the owner of the offending vehicle failed to comply with the terms and conditions of the insurance policy. It is his argument that the insurance company could not be saddled with the liability for payment of compensation.

5. I have heard the counsel for the appellant and considered his submissions.

6. Claimants/respondents No.1 to 5 are the widow, two minor children and parents of deceased Shyam Sunder. On 19.07.2020, along with his brother Dharampal, Shyam Sunder was travelling in a pick-up vehicle. They parked it on the side of the road and Dharampal, PW1, got down to urinate, when the offending vehicle driven by respondent No.1 collided with their vehicle. Shyam Sunder was injured and succumbed to injuries. Dharampal, PW1, was an eye witness to the accident. He appeared in the witness-box and in his affidavit Ex.PW1/A, he stated that the accident occurred as a result of rash and negligent driving of respondent No.1. Despite cross-examination, respondents could not show any material to cast any doubt on the veracity of his testimony. Respondent No.1 has denied the accident in his written statement, but he did not step into the witness box. FIR, Ex.P11, bearing No.535 dated



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20.07.2020 has been registered at Police Station Behror, Rajasthan. Upon completion of investigation, the investigating agency has submitted a final report, Ex.P12 whereby it came to the conclusion that the collision occurred due to the careless driving of the offending vehicle bearing registration No.RJ-02-GA-9411 driven by respondent No.1, who has been arrested. Respondent No.1 has been charge-sheeted and is facing criminal trial.

7. In *Ravi Versus Badrinarayan and others, (2011) 4 SCC 693*, Hon'ble Supreme Court has observed that lodging of FIR proves the factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. Supreme Court clarified that although registration of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if the claimant is able to demonstrate satisfactory and extend cogent reasons for it. Adverting to the facts of the present case, it is evident that the accident had taken place at 6:30 p.m. on 19.07.2020 and Shyam Sunder died on the spot due to the injuries sustained by him. His dead body was taken to CHC Behror for postmortem and was brought to the village for cremation. Criminal case has been lodged on the succeeding day. It therefore cannot be said that there was any delay in the lodging of the FIR. The argument raised by the counsel for the appellant is therefore rejected.

8. Insofar as the submission of the counsel for the appellant regarding fitness certificate is concerned, suffice is to notice that on the basis of the pleadings of the parties, the Tribunal framed a specific issue



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(Issue No.3) to the effect that as to whether respondent No.1 held a valid driving licence at the time of accident and whether the terms and conditions of the insurance policy stood violated. On the basis of the evidence led by the parties, the Tribunal found that driving licence, Ex.P15, of respondent No.1, is valid till 05.10.2032. Tribunal came to the conclusion that insurance company has failed to discharge its burden and has failed to show that respondent No.1 has violated the terms and conditions of the insurance policy. No evidence was led by the insurance company regarding the alleged violation of the terms and conditions of the insurance policy. The appellant, insurance company, therefore cannot be permitted at the appellate stage, to urge that the owner/driver of the offending vehicle did not produce the fitness certificate. This Court does not find merit in any of the contentions raised by counsel for the appellant, which are rejected.

9. No other argument has been addressed by counsel for the appellant.

10. Appeal being devoid of merit is dismissed with no order as to costs.

11. Pending miscellaneous application(s), if any, stand disposed off.

(SUVIR SEHGAL)
JUDGE

29.04.2025

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No