

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****255****FAO-634-2024(O&M)****Date of decision: 11.02.2026****Ompati & Another****...Appellant(s)****Vs.****Rakesh & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sansar Kundu, Advocate
for the appellants.

Mr. PHS Pannu, Advocate
for respondent No.3.

*********NIDHI GUPTA, J.**

The present appeal has been filed by the claimants against the dismissal of their claim petition by the learned MACT, Jind (hereinafter 'the Tribunal'), vide Award dated 28.11.2023 passed in MACP Case No.57 dated 18.02.2021 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The two claimants are the 48-year-old mother and 27-year-old brother of deceased Ravinder.

2. It was the pleaded case of the appellants before the learned Tribunal that the deceased had died due to the injuries suffered by him in a motor vehicular accident that had taken place on 19.12.2020 at about 11 pm due to the rash and negligent driving of Tractor bearing registration No.HR-



32L-8610 (hereinafter referred to as the “offending vehicle”) being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. However, the learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties, had found that the appellants had failed to prove that *“deceased Ravinder has died on account of the injuries sustained in the accident due to rash and negligent driving of vehicle i.e. Tractor bearing registration No.HR-32L-8610 by respondent No.1...”*.

3. Learned counsel for the appellants inter alia submits that the learned Tribunal was in error in dismissing the Claim Petition in holding that the appellants had failed to prove the involvement of the offending vehicle as it failed to appreciate that claimant No.2 Sanjay/brother of the deceased was an eyewitness to the accident. He had appeared before the learned Tribunal as PW1 and had duly proved his case. Learned Tribunal has also ignored the fact that Sanjay had registered FIR No.477 dated 20.12.2020 under Sections 279 and 304-A IPC at Police Station Civil Line, Jind (Ex.P1) immediately after the accident, in which Final Report (Ex.P8) has also been filed against the respondents. It is submitted that therefore, the learned Tribunal was in gross error in giving the above finding and the impugned Award deserves to be set aside.

4. Mr. PHS Pannu, Advocate appears on behalf of respondent No.3; and files Power of Attorney, which is taken on record.



5. Per contra, learned counsel for the respondent No.3 opposes the submissions advanced on behalf of the appellants and submit that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

6. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the appellants.

7. It was the pleaded case of the appellants before the learned Tribunal as recorded in Para 2 of the impugned Award that:-

“2. The petitioners have come up with the averments that on 20.12.2010 at about 11.00 PM, Sanjay (petitioner No.2) and his brother Ravinder were going on foot to their village Kalwa from New Bye Pass Safidon Road, Jind. When they reached in between Pindara Road and Safidon Bye-pass, Jind, respondent No.1 while driving Tractor No.HR- 32L-6610 in rash and negligent manner came there from the side of village Nirjan and directly struck his tractor with Ravinder. After causing the accident, respondent No.1 along with above said tractor and trolley fled away from the place of accident. It is further averred that due to darkness and reflection of vehicle's light, the registration number of the above said tractor could not be seen. Thereafter, he with the help of passersby shifted his brother Ravinder to Civil Hospital, Jind where his brother was declared dead. The matter was reported to the police and FIR No.477 dated 20.12.2020 under Sections 279 and 304-A of Indian Penal Code was registered at Police Station Civil Line, Jind. It is



submitted that Ravinder was hale and hearty. He was running a Mini Dairy having ten mulching buffaloes. He was also an agriculturist having his own land. He also used to take the agricultural land of other villagers on lease and was earning Rs.50,000/- per month. Petitioner No.1 is the mother and petitioner No.2 is brother of deceased and had undergone great mental pain. It is then averred that accident took place due to rash and negligent driving of respondent No.1. Respondent No.2 is the registered owner and respondent No.3 is the insurer of the offending vehicle. It is thus claimed that all the respondents are jointly and severally liable being driver, registered owner and insurer to pay the compensation to the tune of Rs.50 lacs along with interest at the rate of 18% per annum from the date of petition till final realisation to the petitioners on account of death of Ravinder in the said accident. With these submissions, a prayer for acceptance of the claim petition is made."

8. To prove their case, the appellants had appeared as PW1 and PW2 respectively. The claimant/appellant No.2 Sanjay had also got registered FIR No.477 dated 20.12.2020 (Ex.P1). Claimant No.2 has stated himself to be eyewitness to the accident. However, he is unable to explain that if he was eyewitness then why was FIR got registered against unknown vehicle and unknown driver. It has been contended on behalf of the appellants that because the accident had taken place on 19.12.2020 at 11 pm at night, it was difficult to see the number plate of the offending vehicle. Even if that is taken to be correct, there is no explanation as to why even



the make or type of vehicle - such as truck, car, etc. was not mentioned by the complainant in the FIR.

9. It is to be noted that even in the Final Report under Section 173 Cr.P.C. (Ex.P8), nothing is mentioned as to how details of the offending vehicle were finally received. No information to this effect is available on record either from the appellants or from the Investigating Agency as to how it was finally discovered that the truck bearing registration No.HR-32L-8610, was involved in the accident. Thus, for all intents and purposes, there is no source disclosed from where the appellants or the Investigating Agency came to know the identity of the offending vehicle. Therefore, Learned Tribunal has rightly disbelieved the version of the appellants.

10. What clinches the issue is that in his cross-examination, Sanjay/witness/complainant has totally turned the previously pleaded case on its head and has now stated that he had indeed seen the registration number and tractor at the spot of accident. If this version given by the appellant No.2 is taken to be correct, then why said details were not given by Sanjay in the FIR. Ld. counsel for the appellants has no reply or explanation. During cross-examination, he has admitted that he had seen the number of the tractor, but he did not mention the same while lodging the FIR. Given the contradictory statements made by the claimant side, merely because the respondent No.1 is facing trial would not ipso facto establish that the accident was caused by him.



11. Reliance may be placed upon judgment of Hon'ble Supreme Court in **Sithara N.S. v. Sai Ram General Insurance Company Limited, (SC) : Law Finder Doc ID # 2821397**, wherein it is held that:-

"A. Motor Vehicles Act, 1988 Section 166 Claims for compensation under Section 166 require the claimant to prove the occurrence of the accident, the involvement of the offending vehicle, and rash and negligent driving – Mere filing of a chargesheet or absence of vehicle registration number in the FIR is insufficient to establish involvement unless supported by credible evidence - Courts below found serious infirmities in the evidence produced by appellants - Standard of proof required is preponderance of probabilities.

B. Evidence - Motor accident claims - Testimonies of key witnesses found contradictory and unreliable - Tribunal and High Court noted material inconsistencies and improbability in witness statements - Absence of direct evidence or credible basis for the involvement of the alleged offending vehicle.

C. Motor Vehicles Act, 1988 - Liability under the Act must be established through credible evidence - Sympathy for victims cannot override legal principles - Concurrent findings of fact by Tribunal and High Court affirmed by Supreme Court - No exceptional circumstances warranting interference."

12. Learned counsel for the appellants has been unable to dispute the abovesaid factual and legal position.
13. In view of the above, no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed**.
14. Pending application(s) if any also stand(s) disposed of.

11.02.2026
Sunena

(Nidhi Gupta)
Judge

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