

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****246****FAO-1475-2019(O&M)****Date of decision: 06.05.2026****Smt. Sharda & Others****...Appellant(s)****Vs.****Vikash @ Vicky & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- None.***********NIDHI GUPTA, J.**

Registry has listed this case under IOIN category.

Present appeal has been filed by the claimants laying challenge to the Award dated 04.01.2019 passed by the Motor Accident Claims Tribunal, Narnaul (hereinafter 'the learned Tribunal') in MACP No.94 dated 05.08.2017 filed under Sections 166 and 140 of Motor Vehicles Act (hereinafter "the Act") whereby Claim Petition had been dismissed. Present appeal has been filed by claimants No.1 to 3/widow and two minor children of the deceased Anil Kumar. Claimants No.4 and 5/parents of the deceased are pro-forma respondents No.3 and 4 herein.

2. It was pleaded case of the appellants before the learned Tribunal that deceased Anil Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 08.05.2016 at about 21:30 hours due to the rash and negligent driving of Bolero car bearing



registration No.HR-66A-3915 (hereinafter “the alleged offending vehicle”) being owned and driven by respondent No.1 and insured by respondent No.2. However, the learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties had concluded that the claimants *“have failed to prove by preponderance of probability that the accident resulting in the death of Anil Kumar was caused by respondent No.1 while driving Bolero bearing registration No.HR-66A-3915 in a rash and negligent manner. Resultantly, the issue is answered against the petitioners.”* Thus, Claim Petition came to be dismissed.

3. Perusal of record of the case shows that present appeal is of the year 2019 and none has appeared on behalf of the appellants since the inception. Clearly, therefore, neither the appellants nor the learned counsel for the appellants are seriously interested in pursuing the present appeal.

4. Perusal of Grounds of Appeal shows that the claimants have assailed the impugned Award inter alia on the ground that the learned Tribunal has failed to consider that the FIR (Ex.P1) was registered on the statement of PW3 Tejpal and Challan has been filed under Section 173 Cr.P.C (Ex.P7) and charges have been framed under Sections 279, 337, 304-A, IPC(Ex.P8), against respondent/Driver. Therefore, prima facie accident is proved as per settled law as the Act, being beneficial law, learned Tribunal ought not to have gone as per Civil Procedure Code as the same is not fully applicable on the Act, therefore, impugned Award is liable to be set aside.



5. It is further stated that the complainant/author of the FIR PW3 Tejpal along with statement of PW1 Chander Hass clearly proved the factum of the accident and involvement of the vehicle but the learned Tribunal wrongly observed that the vehicle in question was wrongly involved in the present accident, while the evidence clearly says and in the FIR itself it is mentioned a Bolero type vehicle has caused the accident and thereafter, the present vehicle was found involved and police has investigated the involvement of the above said vehicle and challan has been filed against respondent No.1. Moreover, once no complaint/petition/re-investigation application was filed by respondents No.1 and 2 against their so-called false involvement, therefore, observation of the learned Tribunal is wrong in law. Thus, impugned Award is liable to be set aside.

6. It is further submitted that merely because particulars of vehicle was not mentioned in the FIR but later on during police investigation, it was found that vehicle in question was very well involved in the accident, which cause the accident at the hands of respondent No.1, who is owner and driver of the vehicle and moreover, accident taken place on 08.05.2016 at 09.30 pm and FIR is registered on 09.05.2016, therefore, it cannot be said that FIR is at belated stage and after thought version and if had it been a case of false involvement of the vehicle, then appellants would have given full particulars of the vehicle in FIR itself, this clearly shows that the vehicle



in question was duly found involved in the accident by the Investigating Agency and then challan has been filed.

7. For the above said reasons, it has been prayed that the present appeal be accepted; impugned Award be set aside; and Claim Petition of the appellants be allowed.

8. However, I find no merit in the aforesaid submissions.

9. The pleaded case of the appellants before the learned Tribunal as mentioned in Para 1 of the Award is that: -

“Case of petitioners is that on 08.05.2016, Anil Kumar @ Raj Kumar was coming from Village Kapuri to his village Kakrala while driving motorcycle bearing registration No.HR-34D-4771 (hereinafter referred to as 'the Motorcycle') at moderate speed and on the correct side of the road. He was being followed by Chander Hass on motorcycle No.HR-34D-4771. At about 2130 hours, when they reached near Well of Akshay, a Bolero bearing registration No.HR-66A-3915 (hereinafter referred to as 'offending vehicle') came from the side of village Kakrala, being driven by respondent No.1 in a rash and negligent manner, which struck both the said Motorcycles. Due to the impact, riders of both the said Motorcycles fell on the road and sustained serious injuries. Anil died during treatment. Petitioners being his dependents have sought compensation of ₹60 lacs.”

10. In regard to this accident, an FIR No.153 dated 09.05.2016 was registered under Sections 279, 337 and 304-A Indian Penal Code at PS Kanina against unknown driver of the alleged offending vehicle on the basis of statement made by eyewitness Tejpal, who is brother of the deceased.



This Court finds it very odd that both the alleged eyewitnesses Tejpal/PW3, and co-injured Chander Hass PW2 have stated that they did not note down the number of the offending vehicle. Thus, FIR was registered against unknown vehicle. It is strange, that despite being present at the spot, both eyewitnesses did not know the number of the alleged offending vehicle. Yet, they knew the identity of the respondent no.1/Driver. Needless to say, if PW2 and PW3/ eyewitnesses had been present at the spot, they would have known the details of the alleged offending vehicle. If not the number, at least they would know the colour et cetera of the offending vehicle. However, no such details are mentioned in the FIR. Therefore, the presence of the said witnesses at the spot at time of accident is doubtful.

11. This is further fortified from the fact that even though as per the claimants, PW2 eyewitness was also a co-injured, however, there is no evidence on record to show that PW2 had sustained any injuries. For this reason, as well, the presence of these witnesses at the spot and time of accident is rendered doubtful.

12. This is even further fortified from the fact that in the criminal trial, FIR No.153 dated 09.05.2016 registered against respondent No.1 on the statement of Tejpal, complainant, eyewitness/brother of the deceased, respondent No.1 has been acquitted by the learned Sub-Divisional Judicial Magistrate, Kanina vide judgment dated 28.09.2022. It is to be pointed out



that in the criminal trial, Tejpal/complainant appeared as PW6 and learned

Magistrate has recorded as follows:-

“PW6 Tejpal, the complainant deposed about the facts of the case, as per the contents of his complaint, already discussed herein before. He proved his complaint as Ex. PW-2/B and identified his signatures thereon at point-A and also on the PMR at point-B. He identified the accused present before the court. However, in his cross- examination he admitted that he did not see the accused driving the vehicle and also did not see him on the spot. He deposed to be not knowing the registration number of the offending vehicle.”

13. Thus, as per the own saying of the eyewitness/complainant, even identity of the respondent no.1 is not established. Consequentially, respondent No.1 came to be acquitted. Therefore, Claim Petition of the appellants has been correctly dismissed as it would appear that the respondent No.1 has been roped in by the claimants merely with a view to get the compensation; whereas in actual fact, it was a case of hit and run.

14. Thus, Id. Tribunal has rightly dismissed the claim petition.

15. In view of the above, present appeal stands **dismissed**.

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

06.05.2026

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No