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**RA-CR-39-2026 IN
FAO-6082-2017(O&M)
SMT. RAJESH DEVI & ORS V/S MANJEET SINGH & ORS**

Present:- Mr. Rajesh Goyal, Advocate
for the applicants/appellants.

Present Review Application has been filed by the claimants/appellants in FAO-6082-2017 seeking review of the order dated 29.01.2026 whereby above-said FAO was dismissed by this Court.

2. It is inter alia submitted by learned counsel for the review applicants that the order dated 29.01.2026 deserves to be reviewed as this Court has failed to consider and/or appreciate the evidence on record from which it was established that the learned Tribunal had wrongly dismissed the Claim Petition filed by the review-applicants/appellants/claimants. It is submitted that there is no dispute with regard to the fact that the offending container was recovered from the spot where the accident had taken place. Even FIR was registered against the respondent No.1 on the date of accident i.e. 10.01.2015. Even respondents No.1 and 2/driver and owner respectively of the offending vehicle had not appeared in the witness box to controvert the claim of the review applicants. Even respondent No.3/Insurance Company had not disputed or denied the accident in question. It is contended that in this view of the matter, as case of the review applicants remained uncontroverted, they had succeeded in proving that the accident dated 10.01.2015 had occurred due to the rash and negligent parking of the offending container.

3. It is further submitted that the observations of this Court that there was collusion between the review applicants and the respondents No.1 and 2, is uncalled for as there was no pleading or proof to this effect. It is accordingly prayed that the order dated 29.01.2026 be reviewed.

4. In support of his contentions, learned counsel relies upon judgment of Hon'ble Supreme Court in **Archit Saini v. Oriental Insurance Company Ltd. (SC) : Law Finder Doc ID # 971650**; and judgments of this Court in **Harbans Lal v. Harvinder Pal, (Punjab and Haryana) : Law Finder Doc ID # 726118** and **New India Assurance Company Limited v. Manpreet Bagga (P&H) : Law Finder Doc ID # 2056123**.

5. No other argument is made on behalf of the review applicants. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the review applicants.

6. It is submitted by learned counsel for the review applicants that since offending container was recovered from the spot, negligence of the respondent No.1 in wrongly parking the container is made out. To prove their aforesaid contention, review applicants have examined alleged eyewitness PW2. Tribunal in Para 15 of the impugned Award has categorically recorded that *"Except the statement of this witness i.e. Mintu (PW-2), the petitioners have not led any other evidence to prove on record about the involvement of container bearing no.HR-60C-1919"*. Evidence of PW2 has been discarded for the reasons given by this Court in paras 11 and 12 of the order dated 29.1.2026.

7. Order dated 29.01.2026 reads as follows:-

“The present appeal has been filed by the claimants against the dismissal of their claim petition by the learned MACT, Panipat (hereinafter referred to as ‘the Tribunal’), vide Award dated 31.01.2017 passed in MACT Petition No. 34 dated 30.05.2015 filed under Sections 166 and 140 of the Motor Vehicles Act, 1988 (hereinafter referred to as ‘the Act’). The 3 claimants are 44-year-old mother; 18-year-old brother; and married sister of the deceased Amit.

2. It was the pleaded case of the appellants before the Tribunal that deceased Amit had died due to the injuries suffered by him in a motor vehicular accident that took place on 10.01.2015 due to rash and negligent parking of the Container bearing registration No.HR-60C-1919 (hereinafter referred to as “the alleged offending vehicle”) by respondent No.1; owned by respondent No.2; and insured by respondent No.3.

3. Learned Tribunal on the basis of pleadings and evidence adduced before it, concluded that the appellants “... miserably failed in establishing on file that the above accident had occurred on account of negligent parking of the above container by the respondent No.1.”

4. Perusal of the order sheets shows that after issuance of notice in the present appeal on 03.02.2020, matter has been casually pursued by learned counsel for the appellants who has put intermittent appearance in the case. As such, the matter being of the year 2017, the same is being disposed of in the absence of learned counsel for the appellants.

5. Perusal of the Grounds of Appeal reveals that the appellants have assailed the impugned Award on the ground that learned Tribunal has failed to appreciate the controversy between the parties and evidence led by the appellants. Learned Tribunal has totally discarded the statement of PW2. It has been contended

that statement of Maneesh Sehgal holds no water as he categorically mentioned in his statement before the police that he has not witnessed the accident.

6. Per contra, learned counsel for respondent No.3-Insurance Company points out that the statement of alleged eyewitness PW2-Mintu is riddled with contradictions. Moreover, the said eyewitness has not been mentioned either in the challan, nor his statement been recorded under Section 161 CPC. Even the identity of respondent No.1-driver of the offending vehicle has not been properly established. In fact, in the FIR No. 18 dated 10.01.2015 under Sections 283 and 304A IPC registered at Police Station Samalkha, respondent No.1 has been acquitted.

7. It is accordingly prayed that the present Appeal be dismissed.

8. Heard. Perused.

9. The pleaded case of the appellants in the claim petition before the Tribunal as recorded in paras 2 and 3 of the Award is as follows:-

“2. It is the case of the claimants that One Maneesh Sehgal son of Satish Sehgal got recorded his statement with the police regarding the accident in question and as per his statement he is doing the work of transport at Meerut and having two vehicles (TATA ACE). On that day i.e. on 10.01.2015, he received a telephonic information that his vehicle bearing registration no.UP-15BT-0568 make TATA ACE had met with an accident at G.T. Road, Samalkha. On receipt of this information, he alongwith his father Satish Kumar reached at the spot where he came to know that an unknown driver of container bearing registration no.HR-60C-1919 had parked his vehicle without any indicator on the G.T.Road, due to which his vehicle struck with the said container and driver of his vehicle namely Amit son of

Mahabir sustained multiple and grievous injuries in this accident and police shifted Amit to Civil Hospital for treatment, from where he was referred to PGIMS Rohtak and on the way, he died due to the injuries sustained by him in this accident. He has averred that the accident in question took place due to negligent parking of container bearing registration no.HR-60C-1919 without any indicator in the middle of the road by its driver. A case bearing FIR No.18 dated 10.01.2015, under Sections 283, 304-A of I.P.C. was registered with Police Station Samalkha, District Panipat.

3. It is the further case of the claimants that deceased Amit was 24 years and was an expert driver. He was doing the job of driver under Maneesh Sehgal and was earning Rs.20,000/- per month. All the claimants were fully dependent upon the income of the deceased and after the death of deceased, they have no other source of income. A sum of Rs.50,000/- approximately were incurred on transportation of dead body and funeral, last rites ceremonies. Petitioner no.1 Smt. Rajesh Devi is the mother, petitioner no.2 Sandeep is the brother and petitioner no.3 is the sister of deceased Amit. Hence, request is made to grant compensation amounting to Rs.25 lacs along with interest @ 18% per annum, on account of death of deceased Amit.” (Emphasis is mine.)

10. Perusal of the above facts reveals that the accident in question is stated to have taken place due to the negligent parking of the alleged offending vehicle in the middle of the road by an unknown person. FIR was registered on the basis of the statement made by Maneesh Sehgal son of Satish Sehgal, who was owner of the TATA Ace being driven by the deceased at the time of accident. However,

the said Maneesh Sehgal has not been examined by the appellants before the learned Tribunal.

11. It has further been contended by the appellants that the accident was witnessed by PW2 Mintu son of Samay Singh. However, evidence of alleged eyewitness Mintu is doubtful as he is not named as eyewitness either in the FIR or in the challan presented by the police authorities, nor his statement has been recorded under Section 161 CPC.

12. Thirdly, identity of respondent No.1 has not been properly established as admittedly, FIR was registered against unknown person. In the criminal trial, learned sub-Divisional Judicial Magistrate, Samalkha has acquitted respondent No.1 with the following observations: -

11. The prosecution need to prove the identity of the accused beyond reasonable doubt in which the prosecution failed. Therefore, the identity of the accused is not proved. Moreover, the vehicle was parked wrongly and without any indicator is also not proved due to lack of evidence on the case file. In these circumstances, it is not clear as to how the identity of the accused was established by the prosecution.”

13. Thus, except for the evidence of alleged eyewitness PW2, there is no evidence whatsoever on record to prove that offending vehicle was wrongly parked by respondent no.1. The appellants have led no credible evidence to prove their case. Even the statement of PW2 Mintu was not believed by the learned Tribunal as in his examination-in-chief, he has stated that he had witnessed the accident as he was running a Tea Stall near the place of accident. However, during cross-examination, PW2 had admitted that he had not brought any documentary proof regarding the said Tea Stall. PW2 had also admitted before the Tribunal that police have made no inquiries from him regarding the accident

and even, he had not made any effort to contact the police in respect of the accident till date. PW2 also admitted that he had not disclosed regarding the accident to anyone till yesterday; and that the claimant No.1 had come to his house the day before for giving evidence in Court. Learned Tribunal has therefore, correctly observed that if PW2 had not disclosed regarding the accident to anyone, then how did claimant No.1 approach PW2 and how did she come to know that he is witness of the accident or has knowledge of the same.

14. Furthermore, respondents No.1 and 2 had failed to appear before the learned Tribunal to contest the Claim Petition which further indicated collusion between the claimants and the said respondents. Moreover, it is the own admitted case of the appellants that the deceased had hit into the stationary Container. Thus, negligence on part of the deceased cannot be ruled out. No evidence was led to show that offending Container was parked without indicators on. In these circumstances, learned Tribunal has correctly held that claimants had failed to prove the involvement of the offending Container.

15. In view of the above, I find no ground is made out to interfere in the Award dated 31.01.2017. The present Appeal stands dismissed.

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

8. A perusal of the above-said order shows that every aspect of the matter including all the arguments raised by learned counsel for the review applicants has been dealt with in the aforesaid order. No evidence has been ignored by this Court at the time of passing of the order dated 29.01.2026. Therefore, no ground is made out to review the said order. Moreover, judgments relied upon by learned counsel for the review applicants in **Archit**

Saini (supra), Harbans Lal (supra) and Manpreet Bagga (supra) are distinguishable on facts and law.

9. Even otherwise, the scope of review is extremely limited. A review can be entertained only when there is an error apparent on the face of the record or where some new and important matter or evidence, which after exercise of due diligence was not within the knowledge of the applicant or could not be produced at the time of passing of the order, is subsequently discovered. The review jurisdiction cannot be invoked merely to reargue the matter or to fill up omissions or lacunae left in the original proceedings. In the present case, the review applicants have been unable to show any such error apparent in the order dated 29.1.2026.

10. Accordingly, no ground is made out to review the order dated 29.1.2026. The present Review Application stands **dismissed**.

01.04.2026
Sunena

(Nidhi Gupta)
Judge