



S. No.222

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1961 of 2005 (O&M)
Date of Decision:04.02.2026

Jagiro and others

.....Appellants

Vs.

Salinder Kumar and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Ramesh Kumar, Advocate for the appellants.

Mr. Suvir Dewan, Advocate for respondent
No.2.

Yashvir Singh Rathor, J. (Oral)

CM No.5001-CII of 2023

This is an application under Section 5 of the Limitation Act read with
Section 151 CPC for condonation of delay of 334 days in filing the appeal.

For the reasons mentioned in the application, the same is allowed and
delay of 334 days in filing the appeal is condoned.

FAO No.1961 of 2005

1. The present appeal is directed against the award dated 15.01.2005
passed by Motor Accident Claims Tribunal, Kurukshetra (for short, the Tribunal)
vide which MACT Case No.45 of 2002 filed by the appellants (**hereinafter
referred to as claimants**) for award of compensation in respect of death of Desh
Raj in a motor vehicular accident allegedly on account of rash and negligent
driving on the part of respondent No.1 while driving offending Jeep No.HYE-
5824 has been dismissed.



2. Case of claimants is that on 26.11.2001, Desh Raj (since deceased) along with his wife Jagiro was standing at Bus Stand Gangori and was waiting for a vehicle for going to Ladwa. One Rameshwar son of Ram Sarup was also present at the spot. In the meantime, respondent No.1 while driving Jeep No.HYE-5824 at a high speed and in a rash and negligent manner came there and hit Desh Raj as a result of which, Desh Raj fell down and suffered fracture in his left leg and injuries all over his body. Respondent No.1 fled away from the spot along with the offending vehicle. Initially, Desh Raj was taken to the clinic of Dr. Prem, resident of Village Bhukheri and later on he was shifted to LNJP Hospital, Kurukshetra on 28.11.2001 where he was treated and operated upon. However, he died on 13.01.2002 due to the injuries suffered by him. His wife Jagiro had informed the police about the accident but no action was taken by the police. On 09.01.2002, Desh Raj filed a complaint under Sections 279, 337 and 338 of IPC in the Court which was fixed for hearing on 06.04.2002 but said Desh Raj died on 13.01.2002. It is alleged that accident in question had taken place due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle bearing No.HYE-5824 which is owned by respondent No.3 and same was insured with respondent No.2 and as such, all the respondents are jointly and severally liable to pay compensation to the claimants. It is submitted that the deceased was an agriculturist and also a milk vendor and used to earn Rs.10,000/- per month and all the claimants were dependant upon him. A sum of Rs.6 lakhs has been claimed as compensation.

3. Upon notice, respondent No.1 filed written statement and refuted the contents of the plaint. It is submitted that no accident had taken place with



offending vehicle which infact was out of order for the last six months. It is submitted that petition has been filed only to extract money from the respondents and dismissal of the claim petition was sought.

4. Respondent No.2 in its written statement has opposed the petition on the grounds of locus standi, collusion and maintainability. On merits, factum of accident has been denied. The age and income of the deceased too have been denied to be wrong. It is further submitted that the person who was driving the offending Jeep at the time of accident was not holding a valid and effective driving licence and Insurance Company is thus not liable to indemnify the insured & dismissal of the claim petition was sought.

5. Respondent No.3 adopted the written statement filed by respondent No.1.

6. From the pleadings, the following issues were framed:-

- “1. Whether the accident dated 26.11.2001 at about 9.00 a.m took place due to rash and negligent driving of Jeep No.HYE-5824 being driven by respondent No.1 in a rash and negligent manner as a result of which Desh Raj died in the said accident; as alleged?OPP
2. If issue No.1 is proved, to what amount of compensation, the petitioners are entitled to and from whom?OPP
3. Whether the present claim petition has been filed just to claim false claim of compensation as alleged?OPR-1 & 3.
4. Whether respondent No.1 was not hav ing a valid and effective driving licence at the time of alleged accident? OPR-2



5. Whether the present claim petition is a result of collusion between the petitioners and respondent No.2.1 and 3; as alleged? OPR-2.
6. Relief.”
7. Both the parties have led evidence in support of their respective claim and after hearing learned counsel for the parties and on going through the material on record, learned Tribunal came to the conclusion that accident in question had not taken place due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle and consequently the claim petition was dismissed.
8. Feeling aggrieved, the appeal in hand has been preferred.
9. Learned counsel for both the parties have been heard and material on record has been perused.
10. Learned counsel for appellants argued that the award passed by the Tribunal is based on conjectures and surmises. The pleadings of the parties and material on file have not been appreciated in the correct perspective. Learned counsel next contended that the deceased had suffered injuries in the accident caused by respondent No.1 and he remained admitted in the hospital. He had informed the police but no action was taken by the police and thereafter, he had filed a complaint but during pendency of the complaint, he died and, thereafter, the claim petition was instituted by his dependants. Learned counsel contended that claimants in support of their case have examined one of the eye witnesses, namely, Rameshwar Dass, but Tribunal has gravely erred in not believing the testimony of the eye witness examined by the claimants, who has supported the



version of the claimants and had witnessed the accident taking place. Learned counsel prayed that the impugned award be set aside and adequate compensation be awarded to the appellants.

11. On the other hand, learned counsel for Insurance Company argued that the appellants have miserably failed to prove the rash and negligent driving on the part of respondent No.1 resulting in the accident and consequential death of the deceased. Learned counsel contended that no FIR or DDR was lodged in respect of the accident despite the fact that accident allegedly took place on 26.11.2001 and the deceased had died on 13.01.2002. No representation was given to higher police officers against the alleged inaction on the part of the police and the version of the claimants that police had not lodged the FIR cannot be belived. Learned counsel next contended that even post mortem of the dead body was not got conducted from which it could be established that the injuries suffered by the victim in the accident were proximate cause of his death and it is probable that he may have died a natural death and not on account of any injury suffered by him. Learned counsel next contended that even as per version of the claimants, the deceased- victim had suffered fracture in his leg and it is highly improbable that he would have died on account of a fracture in his leg after about 50 days of the accident and appellants have thus miserably failed to establish that deceased died due to injuries suffered by him in the accident allegedly caused by respondent No.1 while driving the offending vehicle in a rash and negligent manner. Learned counsel next contended that findings arrived at by the Tribunal are well reasoned and justified and do not call for any interference and appeal in hand be thus dismissed.



12. After hearing the learned counsel for the parties and on going the material on file, I am of the considered opinion that finding on Issue No.1 in the impugned award is well reasoned and justified and does not call for any interference for the reasons discussed hereinafter.

13. As per version of the claimants, deceased along with his wife was standing at Bus Stand Gangori for going to Ladwa where PW2 - Rameshwar Dass was also present. In the meanwhile, respondent No.1 while driving offending Jeep came there at a high speed and in a zig zag manner and hit the Jeep against Desh Raj resulting in injuries to him. Thereafter, he was taken to clinic of Dr. Prem and subsequently, he was got admitted at LNJP Hospital but later on, he died on 13.01.2002 due to the fracture suffered by him in his left leg. To the same effect is the testimony of PW1 – Jagiro who is the wife of the deceased and PW2- Rameshwar Dass. However, the incident was not reported to the police either by the victim or his wife Jagiro who was also accompanying him at the time of alleged accident. It has been alleged that a complaint was given to the police but no action was taken but if it was so, some complaint or representation should have been given to higher police officers against the inaction on the part of the local police but victim and his family remained mute spectators and did not make any complaint to the higher authorities. No doubt complaint Ex.P1 was instituted in the Court and during pendency of the complaint, victim died but this circumstance alone cannot lead to the conclusion that the offending vehicle had caused the accident.

14. As per their version, victim was taken to LNJP Hospital where he was medico-legally examined and MLR was prepared as stated by PW1- Jagiro.



However, copy of MLR has not been led in evidence and in case, the victim was medico legally examined, the doctor must have sent ruqa to the police regarding his admission in the hospital on account of injuries suffered in an accident which again goes to show that no intimation was even given to the doctor that victim had suffered injuries in a road traffic accident. PW3- Prem Singh, has also been examined who stated that he is a Registered Medical Practitioner and on 26.11.2001, Desh Raj had come to his clinic and was having a fracture in his left leg and he had given him first aid. However, even he has not deposed that victim had disclosed to him that injury was suffered by him in a road traffic accident. He also did not send any intimation to the police regarding cause of injuries suffered by the victim. This fact also makes the version of appellants doubtful.

15. The victim allegedly suffered injury on 26.11.2001 and he died on 13.01.2002 but even thereafter, no post mortem was got conducted as admitted by PW1- Jagiro. She further admitted that no intimation was given by them to the police even at the time of death of Desh Raj. It is pertinent to mention that prior to his death, Desh Raj had already filed a complaint Ex.P1 in the Court and in case, such a complaint had already been filed, the family should have informed the police about his death so that post mortem could have been got conducted to come to the conclusion that the deceased died on account of injuries suffered by him in the accident. It is probable that he may have died a natural death and not on account of fracture suffered by him in his leg and this circumstance also creates doubt about the version of claimants.

16. In this manner, neither any FIR was got lodged and intimation was given to the police regarding the accident allegedly caused by the offending



vehicle nor post mortem was got conducted after his death to establish that the deceased died on account of injuries suffered by him in the accident and in these circumstances, it will be unsafe to rely upon the testimony of PW1 and PW2 to come to the conclusion that deceased died due to injuries suffered in the accident allegedly caused by respondent No.1 while driving the offending vehicle in a rash and negligent manner. There is thus no reason to interfere with the well-reasoned findings arrived at by the Tribunal on Issue No.1 and finding on issue No.1 is accordingly affirmed.

17. As a result of afore-said discussion, there is no merit in the appeal and same is accordingly ordered to be dismissed. However, there shall be no order as to costs.

(Yashvir Singh Rathor)
Judge

February 04, 2026
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No