2026:PHHC:075695

IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

238 **FAO-2035-2005 (O&M)**

Date of decision:13.05.2026

TEJO DEVI AND OTHERS ...APPELLANTS

VERSUS

HARJINDER SINGH AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sagar Aggarwal, Advocate and
Mr. Abhiman Kansal, Advocate
for appellants.

Mr. R.C. Kappor, Advocate
for respondent No.3-Insurance Company.

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PARMOD GOYAL, J. (ORAL)

Present appeal has been filed by appellants-claimants being aggrieved by dismissal of their claim petition vide award dated 12.01.2005 passed by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as '**Tribunal**'), whereby learned Tribunal had held that appellants-claimants have failed to prove involvement of the tractor bearing registration No.HR-01H-2598 (hereinafter referred to as '**offending vehicle**') in causing the accident dated 15.03.2004.

2. As per case of appellants-claimants, accident had taken place on 15.03.2004, when Gurcharan Singh (hereinafter referred to as '**deceased**') along with Amarjeet Singh and Jaswant Singh were going from Shahabad to their village Kahangarh on their respective bicycles. At about 08:30 p.m. when they crossed village Deeg and reached 01 kilometer towards Kharinda side, in the meantime, offending vehicle being driven by respondent No.1 rashly and negligently came from opposite side and had struck against the

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bicycle of Gurcharan Singh after coming on the wrong side of the road. On account of hit by offending vehicle, deceased had fallen from his bicycle and had suffered multiple injuries. Respondent No.1 succeeded in running away from the spot. In the meanwhile, one motorcyclist, namely Surinder Singh came at the spot and he along with Jawant Singh had chased the offending vehicle and had noted its registration number. It was claimed that accident had taken place on account of sole rash and negligent driving of offending vehicle by respondent-driver. It was further asserted that an FIR No.94 under Sections 279 and 304-A of IPC was registered against respondent No.1 on 16.03.2004 in Police Station Shahabad.

3. Respondents No.1 and 2 had simply denied the accident in totality. They had claimed that a false FIR was lodged against respondent No.1 and offending vehicle was never involved in causing accident dated 15.03.2004.

4. From the pleadings of the parties, following issues were framed by the learned Tribunal:-

i. Whether the accident in question was resulting into death of Gurcharan Singh on 15.03.2004 in the area of village Deeg, Police Station, Shahabad, on account of rash and negligent driving of tractor-trolley No.HR-01H-2598 by its driver Harjinder Singh, respondent no.1? OPP

ii. If issue No.1 is proved, whether the claimants are entitled to compensation, if so, to what effect and from whom? OPP

iii. Whether the respondent No.1, driver of the tractor-trolley

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in question was holding a valid and effective driving licence at the time of accident in question? OPR

iv. Whether the claim petition has been filed by claimants in collusion with respondents No.1 and 2? OPR

v. Relief.

5. Learned Tribunal while examining issue No.1 had come to the conclusion that appellants-claimants have failed to prove involvement of offending vehicle in accident dated 15.03.2004. The finding of learned Tribunal on issue No.1 is being assailed by appellants-claimants.

6. In order to prove accident to be result of rash and negligent driving of offending vehicle by respondent No.1, appellants-claimants have duly examined eye witness and author of FIR-Amarjeet Singh as PW3, motorcyclist Surinder Singh who chased offending vehicle and noted its number as PW-4 and investigating officer as PW-2.

7. It is worth noticing that Amarjeet Singh is author of FIR No.94 dated 16.03.2004. Amarjeet Singh, in his statement while appearing as PW3, had reiterated manner of occurrence as was stated by appellants-claimants in their claim petition alleging that accident was caused by offending vehicle No.HR-01H 2598 driven by respondent No.1. Further, to corroborate evidence of PW3, appellants-claimants have also examined Surinder Singh as PW4, the motorcyclist who had chased the offending vehicle after the accident along with Jaswant Singh. Surinder Singh, while appearing as PW4, had duly stated that when he had reached in the area of village Deeg, he noticed a person lying injured on road and two persons were also standing near the injured, who disclosed him that offending vehicle has caused the

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accident and by taking one of them namely Jaswant Singh along with him, PW4 had chased the offending vehicle and had noted the registration number of offending vehicle. PW4 further stated that offending vehicle was being driven by young Sikh man. ASI Teg Singh was examined as PW2. ASI Teg Singh, while appearing as PW2, duly stated that on 15.03.2004, when he was posted at police station Shahabad, a rukka (Ex.P1) was received. PW4 also stated that he reached CHC Shahabad and had recorded statement of Amarjeet Singh, Surinder Singh and Jaswant Singh as Ex.P2, Ex.P3 and Ex.P4 who had witnessed accident and had disclosed the registration number of offending vehicle as HR-01H-2598.

8. Based upon above-noted evidence, appellants-claimants reiterated that it was respondent-driver who had caused accident while driving offending vehicle rashly and negligently. However, learned Tribunal has disbelieved the evidence of PW3 and PW4 on the ground that police investigation is not done promptly and statements of deceased was also not taken promptly by police officer. Learned Tribunal had taken note of the fact that in *rukka* neither identity of vehicle nor of driver was given by doctor and therefore subsequent statement of PW3 and PW4 given on next day to the police, upon which FIR was lodged, cannot be believed.

9. However, this Court find that learned Tribunal has erred in appreciating the evidence. The purpose of *rukka* was to inform the police regarding arrival of an injured/dead person on account of some unnatural causes for which he had suffered injuries/death. Doctor sending a *rukka* was expected to know about the actual manner of accident and therefore he is not expected to identity of the offending vehicle or that of its driver. The role of

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doctor is only to inform police that someone has arrived in injured or dead condition and therefore non-mentioning of offending vehicle or identity of its driver in *rukka* cannot be taken as a ground to doubt the case of appellants-claimants, which is otherwise reliable and has gone unrebutted.

10. It is worth noticing that it is respondent No.1, who had faced the trial for causing the accident dated 15.03.2004. It is also not in doubt that at no stage neither driver nor owner of the offending vehicle had made any complaint to higher authorities for alleged false implication of their vehicle and respondent No.1 in accident dated 15.03.2004. Neither respondent No.1 nor respondent No.2 had dared to step into the witness box and deny the manner of accident as was stated by PW3 and PW4. Perusal of evidence of PW3 and PW4 goes to show that both have stated the manner of accident and number of offending vehicle in a reliable and consistent manner and therefore the learned Tribunal ought to have accepted their evidence which has gone unrebutted, corroborated by the fact that it is respondent No.1, who had faced trial for causing the accident and also by the fact that no evidence denying the accident was led by any of the respondents. It is worth noting that accident had taken place at 08:30 p.m. on 15.03.2004 whereas FIR disclosing manner of accident and registration number of offending vehicle came in public domain at the earliest on 16.03.2004 itself.

11. The learned Tribunal has wrongly not accepted the evidence of Amarjeet Singh, author of FIR and that of Surinder Singh who had duly narrated all the facts before the Court while appearing as PW3 and PW4 as well as by way of their statement (Ex.P2 and Ex.P3) before the police within few hours of accident on 16.03.2004. It must be noted that accident had

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taken place at 8:30 p.m. on 15.03.2004. It was natural for witnesses to first take care of injured by taking injured to the hospital and thereafter, they were expected to take some time to lodge the FIR. Since the accident had taken place during night hours on 15.03.2004, the lodging of FIR on next day on 16.03.2004 cannot be held to be belated in the facts and circumstances of the present case as to raise doubt over testimony of PW3 and PW4 who have stated the manner of accident in consistent manner.

12. Further, for the fault of police in not conducting the investigation promptly, appellants-claimants cannot be penalized. No doubt in present case, police had not taken the steps to arrest respondent No.1 promptly, rather he was arrested after one month from the date of accident on 16.04.2004. Taking offending vehicle in custody in delayed manner is a failure of police and not of the appellants-claimants as to decline their claim. Rather in present case, evidence of PW3 and PW4 is consistent, reliable, and has gone unrebutted, therefore ought to have been accepted by learned Tribunal.

13. In view of above discussion, I find that learned Tribunal has erred in not appreciating the evidence led by appellants-claimants. Accordingly, issue No.1 is decided in favor of appellants-claimants and it is held that accident dated 15.03.2004, resulting into death of deceased was on account of rash and negligent driving of respondent-driver while driving offending vehicle.

14. Admittedly, in claim petition, deceased was stated to be 45 years old at the time of accident. It was claimed by appellants-claimants that deceased was earning Rs.7,000/- per month and engaged in agriculture and

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dairy business. It was also claimed that deceased was survived by widow, four children, and parents. However, except for self-serving oral assertions made by PW1, widow of deceased-Gurcharan Singh, no other evidence was placed on record to prove income and vocation of deceased as was asserted in claim petition. No records showing ownership or lease of agricultural land in name of deceased or regarding dairy have been adduced in evidence. In absence of any cogent evidence to prove that deceased was earning Rs.7,000/- per month and was engaged in agriculture and dairy business, the income of deceased has to be taken equivalent to minimum wages payable to an unskilled worker prevalent in the year 2004. The minimum wages in the year 2004, admittedly for unskilled worker, were Rs.2,418/- per month. The learned Tribunal has taken the income of deceased to be Rs.2,400/- per month. Accordingly, the income of deceased is taken as Rs.2,418/- per month. Keeping in view the age of deceased to be 45 years at the time of accident as was stated by appellants-claimants in their claim petition, appellants-claimants shall be entitled to addition of 25% towards future prospects in view of judgment of Hon'ble Supreme Court passed in **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, 2017 (16) SCC. Admittedly, deceased was survived by seven dependents, deduction of 1/5th towards personal expenses ought to be made and multiplier of ‘14’ ought to be taken into consideration for determining loss of dependency. Appellants-claimants shall also be entitled to Rs.7,500/- towards funeral expenses, Rs.7,500/- towards loss of estate and Rs.15,000/- each towards loss of spousal, parental and filial consortium.

15. Accordingly, re-worked compensation payable to appellants-

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claimants is as under:-

Income	Rs.2,418/- per month (as per minimum wages)	Rs.2,418/- per month
Future Prospects	25% (2,418+604)	Rs.3,022/-
Deduction	1/5th (3022-604)	Rs.2,418/-
Multiplier	14	14
Total loss of dependency	Rs.2,418X14X12	Rs.4,06,224/-
Loss of Estate		Rs.7,500/-
Funeral Expenses		Rs.7,500/-
Loss of spousal consortium to claimant No.1		Rs.15,000/-
Loss of parental consortium to claimants No.2 to 5	Rs.15,000/- X 4	Rs.60,000/-
Loss of filial consortium to claimants No.6 and 7	Rs.15,000/- X 2	Rs.30,000/-
Total Compensation awarded in appeal		Rs.5,26,224/-

16. Appellants-claimants shall also be entitled to interest over the compensation awarded at the rate of 7.5% per annum from the date of filing of claim petition till its realization. The liability to pay compensation to the appellants-claimants on account of death of deceased shall be of respondent No.3-Insurance Company.

17. Present appeal is disposed of in above terms.

18. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)
JUDGE

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

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