

2026.PHHC.069485



FAO-5002 of 2005

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

FAO-5002 of 2005

Date of decision: 05.05.2026

SURAJ MAL AND ANOTHER**.....Appellants****V/S****RAM DHAN AND OTHERS.****... Respondents****CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL, JUDGE**

Present: Ms. Shivani Mishra, Advocate for
Mr. R.N. Lohan, Advocate for the appellants.
Mr. Abhinav Mahant, AAG, Haryana.

PARMOD GOYAL, J. (Oral)

1. Present appeal has been preferred by appellants/claimants being aggrieved by the award dated 17.08.2005 passed by the Motor Accidents Claims Tribunal, Jind, whereby the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 was dismissed, holding that the claimants have failed to prove the involvement of vehicle bearing No. TP-123 in the alleged accident dated 06.09.2001.

2. It was the case of the claimants/appellants that the deceased was residing with her maternal uncle at village Datrath, Jind. On 06.09.2001, she, along with her maternal uncle Naresh Kumar, had gone for cutting of wood on the Alewa–Datrath road. While returning, a truck bearing No. TP-123, belonging to the Haryana Government and driven by respondent No.1, namely, Ram Dhan

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in a rash and negligent manner, came from the side of Datrath and struck the deceased, who was standing on the Katcha portion of the road. As a result of the accident, she died on the spot and an F.I.R. at Police Station, Pillukhera, was registered against respondent No.1/driver, who was charge-sheeted and he faced trial for causing the accident dated 06.09.2001.

3. On the other hand, the case of the respondents was that the said truck was never plied on 06.09.2001 and it remained parked in the workshop, therefore, was not involved in the alleged accident dated 06.09.2001.

4. The onus to prove the involvement of the truck bearing No. TP-123, which subsequently got registration no. HNL-7126, was upon the claimants/appellants. The claimants/appellants were duty bound to show that the truck bearing no. HNL-7126 was involved in causing the accident which resulted in the death of Anita @ Annu on 06.09.2001.

5. On perusal of evidence, it is clearly made out that except for production of F.I.R., chargesheet and release of truck on Superdnama/Superdari, no other evidence in the shape of eye witness has been placed on record. The maternal uncle, Naresh Kumar, who was accompanying the deceased at the time of accident, was not examined before the Tribunal. As per the police investigation, three eyewitnesses, Naresh Kumar, Zile Singh and Ram Sarup were duly examined during the investigation and they also appeared as witnesses in criminal trial, had made their statements before the criminal court. The statements of witnesses were duly placed on record by respondents as Ex.R1, Ex.R2 and Ex.R3.

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6. It is worth noting that Naresh Kumar, maternal uncle of the deceased, who was stated to be accompanying her at the time of the accident, in his statement before the criminal court, where the respondent/driver was facing trial had denied the involvement of both the driver as well as the truck bearing No. TP-123 in the alleged accident. Furthermore, none of the eyewitnesses, in their statements before the criminal court, had asserted that the offending truck was involved in causing the accident.

7. Admittedly, no witness was examined before the Tribunal to prove that the truck bearing No. TP-123/HNL-7126 had caused the accident. In present petition under Section 163-A of the Motor Accident Act, rash and negligent driving on the part of the offending driver is not required to be proved. However, involvement of the vehicle is still required to be proved in order to succeed even in the petition filed under Section 163-A of the Motor Vehicles Act, 1988.

8. The only material on which reliance is being placed by claimants to show involvement of truck bearing no. TP-123, is the fact that F.I.R. was lodged and respondent/driver was put to trial for causing the accident after investigation. However, these facts lose their significance, in view of the fact that after trial, the respondent/driver was found innocent and was acquitted of the charges. In fact, all the eye witnesses examined by the prosecution before the criminal court, had denied about the involvement of truck in the accident.

9. In such circumstances, when the witnesses had denied the involvement of truck before the criminal court, mere lodging of F.I.R. and putting respondent/driver on trial, could not result in assumption or presumption that truck was involved in causing the said accident. In present case, the

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claimants/appellants have failed to prove involvement of truck by leading any cogent evidence. Failure to prove involvement of truck is fatal to the case of claimants/appellants.

10. Consequently, there is no merit in the present appeal and the same is dismissed. However, the claimants/appellants shall be at liberty to seek compensation under the category of “hit and run” cases by making an appropriate application before the competent authority, in accordance with law.

11. All pending civil miscellaneous application(s), if any, also stand disposed of.

(PARMOD GOYAL)
JUDGE

05.05.2026

Kamal Gandhi

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