

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO-3387-2008(O&M)

Date of decision: 19.05.2026

Smt. Baby & ors.

....Appellants

Versus

Gurmail Singh & ors.

....Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

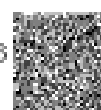
Present:- Mr. Ashutosh Singh, Advocate for
Mr. Prateek Rathee, Advocate
for the appellants.

Ms. Malvi Aggarwal, Advocate for
Mr. D.R. Bansal, Advocate
For respondent No.3.

NIDHI GUPTA, J.

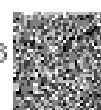
1. The present appeal has been filed by the claimants laying challenge to the Award dated 21.04.2006 passed by the learned Motor Accident Claims Tribunal, Ambala (for short "the learned Tribunal") whereby MACT Case No.160 dated 22.11.2003 filed by the claimants/appellants under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), has been dismissed. Four claimants are the 26-year-old widow, 3½-year-old son, 2-year-old daughter and 8-year-old brother of deceased Vinod Kumar, who was 28 years old at the time of accident.

2. It was the pleaded case of the appellants before the learned Tribunal that the deceased, Vinod kumar, had died due to injuries suffered by him in a motor vehicle accident that had taken place on 31.08.2003 at about 12.30 PM due to the rash and negligent driving of Maruti van bearing registration No.HR-01-6057 (hereinafter referred to as "the offending



vehicle”) being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. However, the learned Tribunal upon appraisal of the pleadings and the evidence adduced by the parties had concluded that the claimants had failed to prove the involvement of the offending vehicle in the accident and “.....*that the same was falsely implicated in this case after due deliberations on the next day of the accident just to claim compensation from the Insurance Company as the van was insured.*” Consequently, the claim petition came to be dismissed.

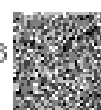
3. It is *inter alia* submitted by learned counsel for the appellants that the learned Tribunal was in error in dismissing the claim petition of the appellants as it failed to appreciate that the appellants have duly proved the rash and negligent driving of the offending vehicle by respondent No.1 by examining eyewitness Surinder Singh as PW-4, who had deposed that “.....*on 31.8.2003 when he was going to his village after purchasing pesticides from Uгла, another motorcycle bearing registration No. HR-01L-7076 was going ahead of his motorcycle which was also being driven on correct left hand side of the road and at a moderate speed. He further deposed that at about 12.00 or 12.30 noon he reached near a hospital when a buffalo was seen coming running from their right hand side from the fields. He further deposed that speed of the motorcycle going ahead of him was slowed down by its driver and that he also slowed down speed of his motorcycle on seeing the buffalo. He again deposed that in the meantime a Maruti van No. HR01-6057 came from the backside which was being driven in a very rash, and negligent manner. He again deposed that driver of the van inspite of seeing the buffalo coming on the roadside did not slow down speed of the van and rather he*



increased the speed of the van and when the buffalo came on the road, he diverted his van towards left side and the van hit against the motorcycle No. HR-01L-7076. He further deposed that as a result of the impact motorcyclist fell on the roadside alongwith the motorcycle. He again deposed that however the driver of the van stopped his van after covering some distance and that he also reached near the van but van driver again accelerated speed of his van and ran away. PW4 Surinder Singh further said that he had disclosed the number of the Maruti van to the people of the 'Dera' who had reached the place of the accident and had taken the injured to the hospital thus proving the fact that the accident had actually taken place due to the rash and negligent driving of the Respondent No. 1 which the learned Tribunal did not take into account while dismissing the claim petition filed by the Claimants."

4. It is submitted that even RW-2, another eyewitness has reiterated the above said facts. Therefore, the appellants had duly succeeded in proving that the accident in question had taken place due to the rash and negligent driving of the offending vehicle by respondent No.1, which had resulted in the death of Vinod Kumar. However, learned Tribunal has failed to consider the relevant evidence on record. Accordingly, it is prayed that the impugned Award be set aside and compensation be awarded to the appellants.

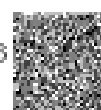
5. Per contra, Id. counsel for respondent No.3 opposes submissions advanced on behalf of the appellants and submits that the impugned Award suffers from no error, and the present appeal deserves to be dismissed.



6. No other argument is raised on behalf of the parties. I have heard learned counsel for the parties and perused the case file in detail. I find no merit in the submissions made on behalf of the appellants.

7. A perusal of the record shows that the learned Tribunal has considered in detail all the evidence on record to give the conclusion that the offending vehicle and respondent No.1 were not involved in the accident dated 31.08.2003 and had been falsely implicated by the claimants only with a view to procure the compensation. Learned Tribunal duly took note of the fact that eye-witness Surinder Singh PW-4 had stated that when a Buffalo came running from the fields, the driver of the offending van did not slow down the speed of the van despite seeing the Buffalo and rather he increased the speed of the van and when he saw the Buffalo on the road, he diverted his van towards the left side and hit into the motorcycle, which was being ridden by the deceased; as a result of which impact, the said motor cycle fell on the road along with the deceased. PW-4 has further deposed that he had noted down the number of the van and had duly disclosed the same to the persons who had gathered there after the accident. It is trite that if that was so, why PW-4 did not disclose the details of the offending van to the police himself? Even the persons who had gathered there after the accident and had taken the injured to the hospital to whom PW4 had purportedly disclosed the details of the offending vehicle, have not approached the police. Even PW4 has not given details of any such person to whom he had disclosed the details. Thus, evidence of PW4 is vague.

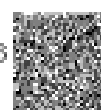
8. It is also to be noted that PW-4 has specifically deposed that he had given his name and address to the persons present there. Despite that, it



is only after one year that a family member of the claimants' side had approached PW-4 and had requested him to appear as a witness in this case. From these facts, it is clear that PW4 is a procured witness. The story set up by the claimant side in connivance with PW4 is far fetched and concocted. Firstly, no reason is given by PW-4 as to why, after witnessing the accident, did he not approach the police to lodge FIR regarding the accident. Further, there is no explanation given by the claimants' side as to why no one had approached PW-4 for one year to get details of the offending vehicle. The greatest anomaly is that PW-4 had specifically deposed that he had disclosed number of the Maruti van to the people of the Dera at the place of accident itself, yet none had come forward to register the FIR or even disclose the same to the claimants.

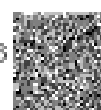
9. On the other hand, another eyewitness, namely Prem Chand had appeared as RW-2 and had deposed along the same lines that *"to avoid the accident with the said Buffalo, driver of the van, diverted his van towards the left side and the van struck against the motorcycle and the motorcycle fell down"*. RW-2 has further deposed that on the very next day he had made a statement to the police on the basis of which daily diary report (Ex. PA) was recorded. It is to be noted that even in Ex.PA, it is not mentioned that another motorcycle on which alleged eyewitness PW-4 was riding was coming behind the motorcycle being driven by the deceased. In fact, even in the claim petition, it is nowhere mentioned that another motorcycle, which was being driven by the PW4 was following the deceased at the time of accident. Clearly, therefore, PW4 was not actually present at the spot and is a procured witness.

Therefore, his evidence is unreliable. It is in this circumstance that Tribunal



has rejected the testimony of alleged eyewitness Surinder Singh PW-4. Relevant findings of the Id. Tribunal in this regard are in para 11 of the impugned Award, as follows:-

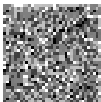
“11. Claimants examined only one witness namely Surinder Singh PW-4 in order to prove the assertion that accident was caused due to rash and negligent driving of maruti van bearing registration No. HR01-6057 by Respondent No. 1. However, he seems to be a procured witness of claimants. Claimants have placed reliance upon copy of Daily Diary Report Ex. PA which was lodged with the police on the very next day of the accident by one Prem Chand who was not examined by the claimants and however, he was examined by Respondents No. 1 and 2 as their witness as RW-2. Even in Ex. PA, it has nowhere been mentioned that another motorcycle was coming behind the motorcycle being driven by the deceased. Even in the claim petition, it has not been mentioned that another motorcycle was coming behind the motorcycle being driven by the deceased and the said motorcycle was being driven by Surinder Singh (PW-4) and that he had witnessed the occurrence. He had deposed that he was approached by relatives of claimants to appear in this Court as a witness after about one year of the accident. He deposed that during the said period of one year he did not approach the police. He further deposed that he had noted down the number of the van involved in the accident and had also told number of the van to the people present there. He has also deposed that relatives of the deceased had also reached there and they had taken the injured to the hospital. He has also deposed that he allegedly got noted down his name and address to the people present there. Hence, it is not believable that when he was present at the time of accident, as to why his name and address was not disclosed to the police and as to why his statement was not got recorded by the police against driver of



the van. Hence, he is procured witness of the claimants and no reliance can be placed upon his testimony that he had witnessed the accident. Rather it is held that he was not present at the place of accident and that he is deposing falsely at the instance of the claimants being known to them.”

10. Moreover, collusion between the claimants and respondents No.1 and 2 is evident from the fact that the said respondents in their written statement have admitted involvement of their Maruti van in the accident in question. Even no action was taken by the police against respondent No.1. It is also very odd that Prem Chand RW-2 was not examined by the claimants and was examined by the respondents No.1 and 2. From this fact, Id. Tribunal further concluded that *“Even Prem Chand RW is procured witness of claimants and Respondents No. 1 and 2. He was having no concern with the maruti van which was allegedly involved in the accident. He deposed that he occupied the said van by taking lift from the van driver and that however, he alongwith other persons traveling in the van left the place of accident with the van and that on the next day he approached the police and lodged DDR Ex. PA. The plea taken by Prem Chand RW also does not appeal to conscience of this Court that he would leave the place of accident on that day and would approach the police on the next day with the version that there was no rash and negligent driving on the part of driver of van in the accident and got DDR lodged in this regard with the police and that the same was falsely implicated in this case after due deliberations on the next day of the accident just to claim compensation from the Insurance Company as the van was insured.”*

11. Accordingly, learned tribunal concluded that claimants had failed to prove that death of deceased was caused due to rash negligent driving of



the offending van by respondent No.1. Learned counsel for the appellants is unable to dispute or controvert the above said facts and findings.

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

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

19.05.2026
monika

(NIDHI GUPTA)
JUDGE

i) Whether speaking/reasoned?	Yes/No
ii) Whether reportable?	Yes/No