



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-4130-2010 (O&M)

Date of decision: 28.01.2026

Vandana Vasudeva & Others

...Appellant(s)

Vs.

Darpan Bali & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- None for the appellants.

Mr. Pual S. Saini, Advocate
Ms. Gunjan Nahata, Advocate
for respondent No.3.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants against the dismissal of their claim petition by the learned MACT, Panchkula (hereinafter 'the Tribunal'), vide Award dated 15.09.2009 passed in Claim Petition No.13 dated 02.02.2008 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The four claimants are the widow, son, daughter, and mother of deceased Sanjay Vasudeva, who was 36 years old at the time of accident.

2. Present appeal is of the year 2010 and has been filed with a delay of 75 days. In a fire incident that took place on 30.01.2011 in the Record Section of the Civil Revision/FAO Branch of this Court, several files including



file of the present case was burnt. Accordingly, vide order dated 17.02.2011, fresh notices were issued to the respondents. Vide order dated 19.05.2011, learned counsel for the appellants was directed to take appropriate steps to implead Legal Representatives of respondent No.1. Till date, despite lapse of 15 years, no application has been filed by Id. counsel for the appellants for impleading LR's of respondent No.1. Order sheets further reveal that none has appeared on behalf of the appellants on the last three dates of hearing. Accordingly, the present matter, being of such old vintage, is being decided in the absence of learned counsel for the appellants.

3. It was the pleaded case of the appellants before the learned Tribunal that on 07.05.2005, Sanjay Vasudeva had gone to meet his father-in-law and when they were both returning on their separate scooters and had reached near Mandi Board, Sector 6, Panchkula, truck bearing registration No.HR-58-5728 (hereinafter referred to as "the offending vehicle") being driven rashly and negligently and at very high speed by respondent No.1, owned by respondent No.2 and insured by respondent No.3, hit into Sanjay Vasudeva, as a result of which he suffered multiple grievous injuries. It was further averred in the Claim Petition that thereafter, Sanjay Vasudeva was shifted to General Hospital, Sector 6, Panchkula; whereafter he was referred to Government Hospital, Sector 32, Chandigarh for further treatment, as his condition was serious. Ultimately, Sanjay Vasudeva died on 13.06.2007 due to brain clotting. It was alleged that the deceased was a Senior Assistant in the State Bank of India and was drawing



a salary of Rs.23,000/- per month. The claimants were solely dependent on the deceased. Accordingly, compensation of Rs.20 lakh was prayed for.

4. Upon appraisal of pleadings and oral & documentary evidence adduced by the parties, learned Tribunal dismissed the Claim Petition being not maintainable.

5. It is pointed out by learned counsel for respondent No.3/Insurance Company that in respect of the accident dated 07.05.2005, deceased Sanjay Vasudeva had previously filed a Claim Petition bearing MACT Case No.74 dated 26.07.2005 before the Tribunal in respect of the injuries and permanent disability suffered by him in the roadside accident dated 07.05.2005. The said Claim Petition had been allowed by the Tribunal vide Award dated 07.03.2007; thereby awarding compensation of Rs.2,33,284/- to Sanjay Vasudeva. A copy of said Award dated 07.03.2007 is handed over in the Court, which is taken on record. It is submitted that therefore, the present/second Claim Petition in respect of the same accident dated 7.5.2005, was not maintainable. It is accordingly prayed that the present appeal be dismissed.

6. No other argument is raised on behalf of the respondent No.3. I have heard learned counsel and perused the case file in great detail. I find merit in the submissions advanced on behalf of the respondent No.3.

7. A perusal of the said Award dated 07.03.2007 passed in MACT Case No.74 dated 26.07.2005 titled as "Sanjay Vasudev Vs. Darpan Bali & Others" shows that in Para 2 thereof, it is recorded as follows: -



“2. The cause of accident with brief description narrated in the petition is recapitulated hereunder:-

On 07.05.2005, the petitioner on being called by his father-in-law went to his place on his scooter bearing Registration No.HR03C-8231 from there when they both were going on their separate scooters and had reached the Mandi Board, Sector-6, Panchkula a canter bearing registration No.HR58-5724 (hereinafter referred to as the offending canter) being driven rashly and negligently and at a very high speed came and knocked him down. As a result of accident, he suffered multiple grievous injuries. From the site of accident he was taken to Government Medical College and Hospital, Sector-32, Chandigarh for treatment. He was operated upon and remained hospitalized upto 23.05.2005. Alleging that he had spent around Rs.70,000/- on his treatment, medicines, Implants, transportation, special diet and attendant etc., he claimed compensation to the tune of Rs.6.00 Lacs.”

8. From a bare reading of the above facts, it is clear that the present claim petition has been filed on identical facts, and in respect of the same accident dated 7.5.2005. In the above said first claim petition, Learned Tribunal upon appraisal of pleadings and evidence concluded that deceased Sanjay Vasudeva had suffered injuries in the accident dated 07.05.2005. As per the Disability Certificate (Ex.P-85), it was found that Sanjay Vasudeva had suffered permanent disability to the extent of 40% qua lower limb, which was proved by Dr. Umesh Modi PW3, who was member of the Medical Board. Accordingly, keeping in view the attendant



facts and circumstances of the case in mind, learned Tribunal had awarded Rs.2,33,284/- to the deceased.

9. In respect of the same accident dated 7.5.2005, the claimants have now again preferred the instant claim petition, alleging that Sanjay Vasudeva has died due to the injuries suffered by him in the accident dated 07.05.2005. However, the appellants have been unable to connect the death of Sanjay Vasudeva with the accident dated 07.05.2005. PW3/Dr. Payal Puri has clearly deposed that since complete record with regard to the treatment of deceased is not available, so it is not clear that the accident had resulted in his death or not. Even no Post-Mortem Report was brought on record by the claimants to establish the cause of death. In fact, as per the own testimony of claimant No.1/widow as PW1 namely Vandana Vasudeva, she had admitted that the deceased had recovered after treatment and had joined duty. Thus, there was nothing on record to prove that deceased had died on 13.06.2007 due to the injuries suffered by him in the accident dated 07.05.2005. It is difficult to hold proximity between the cause of death and accident. There is nothing to prove that deceased had died in the Hospital. Mere possibility cannot take place of proof. The deceased had died on 13.06.2007, however, all the test reports pertained to year 2005-06. Even Disability Certificate is of November 2006; CT Scan was done on 07.05.2005; and latest on 12.06.2006 i.e. one year prior to death of deceased. Compensation has already been paid to the claimant in MACT Case No.74/2005 and thus, this appeal is not maintainable.



10. Accordingly, the said contention of the claimants has been rejected by the learned Tribunal for cogent and valid reasons as recorded in Paras 21 and 22 of the present impugned Award, which read as follows:-

“21. According to PW-1 Vandana Vasudeva her husband had recovered after treatment and had joined her duty. She stated that her husband was given light work by the employer Bank. However, no evidence has been brought on record by the petitioners to prove that Sanjay Vasudeva was allotted light work in the Bank or remained on leave. Therefore, it is difficult to hold proximity between the accident and the case of death. There is nothing on the record to prove that the deceased died in the hospital. Though, the deceased developed some complications following the accident yet definite evidence for warranting conclusion of this aspect has not been produced by the petitioners. PW-2 Dr. Vijay Girdhar and PW-3 Dr. Payal Puri have only stated that death of Sanjay Vasudeva could be on account of injuries sustained by him in the accident. Merely possibility cannot take place of proof. A positive fact cannot be proved by a process of reasoning alone. Sanjay Vasudeva died on 13.06.2007. All the test reports produced pertained to the year 2005-2006. Even disability certificate is of November, 2006. CT Scan was done on 7.5.2005 and latest on 12.6.2006 i.e. one year prior to death of Sanjay Vasudeva.

22. Undisputedly, compensation as determined by the Tribunal has already been paid to the petitioners in earlier petition. The present petition on the same cause of action is not maintainable in view of observations of the Hon’ble Supreme Court in Ram Parshad Balmiki’s case (supra).”



- 11. In view of the above, present appeal accordingly stands dismissed.
- 12. Pending application(s) if any also stand(s) disposed of.

28.01.2026
Sunena

(NIDHI GUPTA)
JUDGE

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