

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****120****FAO-2369-2022 (O&M)****Date of decision: 15.01.2026****Rampati and others****...Appellant(s)****Vs.****Sunil Kumar and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Robin Lohan, Advocate for the appellants.

Mr. Diwan S. Adlakha, 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, Hisar (hereinafter referred to as 'the Tribunal'), vide Award dated 01.09.2021 passed in MACP Petition No. 37 dated 30.03.2019 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 4 claimants are the 43-year-old widow; 24-year-old son; 21-year-old son; and mother of the deceased Mahinder, who was 45 years old at time of accident.

2. The learned Tribunal upon appraisal of the pleadings as well as oral and documentary evidence led before it, had concluded that the appellants had failed to prove that the accident in question had taken place due to rash and negligent driving of a Mahindra Scorpio bearing Registration No. HR-21E/7045 (hereafter referred to as 'the alleged offending vehicle') being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3.



3. It is *inter alia* submitted by learned counsel for the appellants that from the facts of the case, the involvement of the offending vehicle and driver in the accident is proved prima-facie as the challan is presented against the respondent No. 1 Driver and he is facing the criminal trial before the Ld Trial Court for the said accident. Furthermore, the owner of the vehicle has taken the offending vehicle on superdari. It is further submitted that from the perusal of the documentary evidence and from the statements of PW-2 and PW-3, it is sufficient to establish that the initially the name of the offending vehicle was not in the knowledge of the PW-2 and the same was narrated to him after a short gap by the PW-3 who is real eyewitness of the accident but due to the inefficiency of the investigation officer, his name was not involved in the list of witnesses in the challan and IO never tried to extract the real information from PW-2 by properly interrogating him despite the fact that PW-2 Sunder has submitted an application on 09.03.2019 stating therein that he has got the information of the offending vehicle and the same has been properly verified that the number of the offending vehicle is HR21E-7045. It is the inefficiency of the investigating officer who has not thoroughly examined the witnesses and never tried to reach to the real source of information from where PW-2 has collected the exact number of offending vehicle i.e Mahindra Scorpio. The negligence in conducting the proper investigation by the investigating officer should not be a hurdle in the relief claimed by the claimants in accident case under Motor Vehicle Act before the Ld MACT.



4. It is further submitted by learned counsel for the appellants that the Tribunal had dismissed the Claim Petition only on the ground that Investigating Officer was not examined by the appellants. Learned counsel contends that the same does not constitute sufficient ground to dismiss the Claim Petition in its entirety; especially in view of the fact that owner of the offending vehicle RW1 had admitted the accident in his evidence. It is further submitted that as per the Mechanical Report, which was submitted alongwith the challan Ex.P13, it was found that the offending vehicle had been damaged. However, these facts have not been noted by the Tribunal in the Award. Learned counsel contends that in view of this sufficient evidence, learned Tribunal was in error in dismissing the Claim Petition.

5. It is lastly submitted that Motor Vehicles Act being beneficiary legislation, compensation cannot be denied merely on the ground of technicality. The cases under the Act, have to be proven from the preponderance of probability and not as per the hard principles laid down in Civil and Criminal cases.

6. It is accordingly prayed that the present appeal be allowed; and the impugned Award be set aside.

7. *Per contra*, learned counsel for respondent No.3 opposes submissions made on behalf of the appellants and submits that the impugned Award suffers from no infirmity as the Claim Petition has been rightly dismissed by the learned Tribunal. Hence, the present appeal deserves to be dismissed.



8. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file alongwith Lower Court record in minute detail.

9. The case as pleaded by the appellants in the claim petition before the learned Tribunal as recorded in para 1 and 2 of the impugned Award reads as follows:-

“1. The facts which led to the filing of present claim petition are that on 04.02.2019 Mahinder (since deceased) was going from Hisar Cantonment to Hansi by motorcycle bearing Registration No. HR-21J/1385 at a moderate speed and adhering to the mandatory traffic rules. At about 7:30/8:00PM, when he reached near Sher-e-Punjab Hotel on Hansi-Hisar road in the area of police station Sadar, Hansi then offending Mahindra Scorpio bearing Registration No. HR-21E/7045 being driven by the respondent No.1 in a rash and negligent manner came from opposite direction and hit in the motor cycle of Mahinder. Resultantly, Mahinder fell down on the road and received multiple grievous injuries on his person. His motorcycle was extensively damaged. Some passersby rendered help to him and shifted him to General Hospital, Hansi in an ambulance but the Doctor declared him brought dead. The matter was reported to the police and a case vide FIR No. 020 dated 04.02.2019 for commission of offence under sections 279, 304-A, 427 IPC was registered against unknown vehicle and unknown driver in police station Sadar, Hansi. During investigation, the respondent No.1 was found to be involved in the accident in question.

2. It is further pleaded that Mahinder (since deceased) was 45 years of age on the date of accident. He was self-



employed as Mason. Besides this, he was doing agriculture work during harvesting season and was earning a sum of ₹20-25,000/- per month approximately from all sources. The petitioners incurred a sum of ₹1,00,000/- on the transportation of dead body and last rites of the deceased. The petitioner No.1 is wife, petitioners No.2 and 3 are sons and petitioner No.4 is mother of deceased Mahinder, who were entirely dependents upon his earnings. Untimely death of Mahinder has brought them at the verge of starvation. In this way, petitioners have laid claim of ₹70 lacs alongwith interest at the rate of 18% per annum on account of death of Mahinder in the accident in question.”

10. It is admitted fact on record that the FIR No. 20 dated 04.02.2019 was registered on the basis of statement made by Sunder/brother of the deceased Mahinder, against an unknown vehicle and unknown driver. However, 33 days after registration of FIR, on 09.03.2019, Sunder had suddenly moved application Ex.P11 to the concerned Superintendent of Police, Hansi; wherein he has mentioned that accident has been caused by alleged offending vehicle, the same being Scorpio Car bearing registration No. HR-21E/7045. In his application Ex.P11, Sunder had failed to mention the source of the said information. No explanation has been given by the claimants for this delay in disclosing the details of offending vehicle. However, during evidence before learned Tribunal, the claimants had examined Rajender PW3 on 02.03.2021 alleging him to be an eyewitness in the accident in question and also the source of details of the offending vehicle and its driver.



11. It is my clear view that the evidence led by PW3 had been rightly disbelieved by the learned Tribunal on account of the fact that: (a) name of Rajender does not find mention in the list of witnesses attached with the Report under Section 173 Cr.P.C.; (b) Had Rajender been eyewitness to the accident, he would have recorded statement before the police under Section 173 Cr.P.C.; (c) Rajender had stated that he was working at the Sher-e-Punjab hotel for 5 to 6 months prior to the date of accident. However, no details were provided in respect of the same; (d) PW3 has stated that he knew the deceased and his brother Sunder PW2. However, there is no explanation for the fact that if this was so why did Rajender not disclose about the offending vehicle to the complainant Sunder prior to 09.03.2019. Furthermore, even PW2 Sunder had not mentioned in his application Ex.P11 that Rajender had disclosed details of the offending vehicle to him; and (e) Rajender was also unable to explain as to why he had not shifted the deceased Mahinder to the hospital despite knowing him and despite being eyewitness to the accident. In his cross-examination Rajender has admitted that he has never gone to the police station. He has, however stated that he had met the police at the place of accident, but they had not recorded his statement.

12. In the above scenario, learned Tribunal has correctly concluded that Rajender was the witness planted by the claimants in order to procure compensation.

13. Contention of the claimants that owner of the offending vehicle RW1 has admitted the accident in his evidence, is factually

incorrect. A perusal of the Affidavit in evidence Ex.RW1/A shows that RW1 has categorically stated therein *“That the involvement of the vehicle of deponent is falsely planted and in fact, no accident was caused by the respondent No.1 by driving the vehicle noted above on 04.02.2019 at 7.30-8.00 PM near Shere-Punjab Hotel on Hansi-Hisar Road. The police of P.S. Sadar, Hansi has registered a false case by falsely involving the vehicle of the deponent.”*

14. Lastly, no doubt, proceedings under the MACT are to be on the preponderance of probabilities. However, the same cannot defy logic and the basis legal principles, rationality, justice. Furthermore, proceedings in MACT Act cannot be reduced to a commercial enterprise only to enable the claimants to procure compensation.

15. Learned counsel for the appellants is unable to dispute or controvert the above said factual and legal position.

16. In view of the above, present appeal is **dismissed**.

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

15.01.2026

Divyanshi

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No