



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 02.04.2026

FAO-5436-2014 (O&M)

Dharam Pal Garg & Another

...Appellant(s)

Vs.

Swaran Singh & Others

...Respondent(s)

FAO-1980-2015 (O&M)

Dharam Pal Garg & Another

...Appellant(s)

Vs.

Swaran Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ravish Bansal, Advocate
for the appellants.

Mr. Hitesh Chopra, Advocate
for respondent No.1.

Mr. Vinod Gupta, Advocate
for respondent No.3.

NIDHI GUPTA, J.

FAO-5436-2014

The present appeal has been filed by the claimants against the dismissal of their claim petition by the learned MACT, Ambala (hereinafter 'the Tribunal'), vide Award dated 19.03.2014 passed in MACT/36/2011 dated 04.02.2013 filed under Section 166 of the Motor Vehicles Act, 1988



(hereinafter referred to as 'the Act'). The two claimants are the 61-year-old husband and 32-year-old daughter of deceased Shikha Garg.

FAO-1980-2015

The present appeal has been filed by the claimants against the dismissal of their claim petition by the learned MACT, Ambala (hereinafter 'the Tribunal'), vide Award dated 19.03.2014 passed in MACT/35/2011 dated 04.02.2013 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The two claimants are the 61-year-old father and 32-year-old sister of deceased Ashutosh Garg.

2. It was the pleaded case of the appellants before the learned Tribunal that deceased Sheela Garg and Ashutosh Garg had died due to the injuries suffered by them in a motor vehicular accident that took place on the intervening night of 11/12.05.2008 due to the rash and negligent driving of the Tanker bearing registration No.JK-02R-1945 (hereinafter referred to as the "offending vehicle") being owned by respondent No.1, driven by respondent No.2 (now deceased - and represented through his LR), and insured by respondent No.3. However, the learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties had dismissed the Claim Petition holding that the appellants/claimants had failed to prove the accident in question.

3. Both the present appeals are being disposed of by this common order as they arise out of the common Award dated 19.03.2014; and both appeals are between same parties; and in respect of the same



accident dated intervening night of 11/12.05.2008. For the sake of brevity, the facts are being taken from, and the parties are being referred to as per their status in FAO-5436-2014.

4. Learned counsel for the appellants submits that the learned Tribunal was in error in dismissing the Claim Petition as it failed to appreciate the evidence on record. The impugned Award has been passed merely on the basis of conjectures and surmises. The grounds taken while rejecting the Claim Petition are without any basis and are not in consonance with the provisions of the Act.

5. It is further submitted that the Id. Motor Accidents Claims Tribunal, Ambala while passing the impugned order has wrongly and illegally ignored that the report was promptly made to the police station and there is no delay. The lodging of the FIR is the prerogative of the police, and in the present case no FIR was lodged, though it was duly stated that the driver of truck was negligent. The Id. Motor Accidents Claims Tribunal, Ambala while passing the impugned award has wrongly and illegally held that the appellants did not lodge the FIR, which is incorrect and liable to be set aside.

6. It is submitted that the Id. Tribunal, while passing the impugned award has wrongly and illegally ignored that it was duly proved that the accident took place, and it was also proved beyond reasonable doubt that the driver of truck was negligent, but without their being any cogent evidence on record, merely on the basis of conjectures and surmises the Id.

Tribunal has rejected the claim petition in a wrong and illegal manner. It is



accordingly prayed that the present appeal be allowed and the impugned Award be set aside and compensation be awarded to the appellants.

7. Per contra, learned counsel for the respondent No.3 opposes the 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.

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

9. Perusal of record of the case shows that the pleaded case of the appellants before the learned Tribunal as recorded in Para 3 of the impugned Award is that: -

“3. The brief facts as per the petition are that on 11.5.2008, Smt. Shikha Garg and Shri Ashutosh Garg, since deceased were coming from Delhi to Ambala in Maruti Car bearing registration no. PB-29A-6293. The car was being driven by Ashutosh Garg on the correct left hand side of the road at a moderate speed. Smt. Shikha Garg was sitting on the front seat besides Ashutosh Garg. It is averred that on the intervening night of 11/12.5.2008, when they reached near Shahabad, Shikha Garg had made a telephonic call to Pragati Garg, the claimant no.2 and told that they have reached near Shahabad and will arrive at Ambala shortly. It is further averred that, when they reached near the Indian Oil Depot, Ambala Cantt., a tanker bearing registration no. JK-02R-1945 was going ahead of their car and on the road cut just in front of the Indian Oil



Depot, the driver of the tanker bearing registration no. JK-02R-1945 without giving any indicator, applied brakes and took turn towards left side; accordingly, Ashutosh Garg, since deceased also applied brakes but could not control his car and resultantly due to sudden applying of brakes by the driver of the tanker, car hit against the rear portion of the tanker in question. It is further averred that, in the aforesaid accident Shikha Garg and Ashutosh Garg sustained multiple injuries and succumbed to the same on the spot. It is further averred that, Smt. Shikha Garg was employed as teacher in Government School and due to her untimely death, they have suffered loss of love and affection besides mental agony. It is further averred that, due to her untimely death, life of the claimants have ruined and has become miserable and now there is none else to look after them. It is further averred that, petitioner no.1 has also suffered loss of consortium. It is further averred that the accident in question was witnessed by the passersby including one Hazura Singh s/o Yad Ram of village Mohra. It is further averred that, as the accident in question had taken place due to rash and negligent driving of tanker bearing registration no. JK-02R-1945 by respondent no.2; therefore, respondent no.2 being driver, respondent no.1 being owner and respondent no.3 being insurer of the offending tanker in question are jointly and severally liable to pay compensation to the claimants alongwith interest at the rate of 15% per annum from the date of filing petition till realisation.”

(Emphasis added)

10. First and foremost, it is to be seen that in respect of the accident dated 11.05.2008, the present Claim Petitions bearing No.36 and



35 of 2011 have been filed by the appellants on 09.05.2011 i.e. after about 3 years. No explanation whatsoever has been given by the appellants for the said inordinate delay in filing the Claim Petitions.

11. Further, in proving their above-said case, the appellants have relied upon DDR No.17 dated 12.05.2008 lodged by the claimant in respect of the accident in question. Admittedly, no FIR was registered in respect of the accident dated 11/12.05.2008. To further prove their above-pleaded case, the appellants have produced PW2 Hazura Singh, alleged eyewitness. However, if Hazura Singh had actually witnessed the accident in question as averred in the claim petition filed after three years, then why was his name not mentioned in the DDR no.17 registered on the day of the accident itself on 12.5.2008. No explanation is again given by the appellants in this regard. It would therefore appear that the alleged eyewitness has been produced subsequently as an afterthought.

12. The said view is further fortified from the fact that admittedly, the said eyewitness is a relative of the appellants. During cross-examination PW2 has admitted that he had retired in the year 2006 from the Power House at Dhulkot, Ambala; and that he knows claimant No.1 since 2003-04.

13. It is also noteworthy that in the DDR, it is even not mentioned as to how the accident had transpired. The claimant No.1 while appearing as PW1 has admitted that he is not an eyewitness to the accident in question. No doubt, DDR was registered on the very date of the accident.

However, shadow of doubt is cast on the whole case set up by the



appellants on account of the fact that the alleged eyewitness Hazura Singh is not mentioned in the DDR.

14. Furthermore, even if the story put forth by the claimants is to be accepted that the accident had occurred as the offending truck had suddenly applied brakes, even then the appellants cannot be held entitled to compensation. Reference is made to Rule 23 of the Rules and Road Regulations 1989, which reads as follows: –

“23. Distance from vehicles in front.- The driver of a motor vehicle moving behind another vehicle shall keep at a sufficient distance from the other vehicle to avoid collision if the vehicle in front should suddenly slow down or stop.”

15. Thus, Rule 23 categorically stipulates that safe distance be maintained from the vehicle in front. Clearly, the deceased was driving the Maruti Car at a fast speed to have struck into the offending vehicle with such impact to result in his death and his mother/co-passenger.

16. Relevant reasoning of the learned Tribunal is in Para 13 of the impugned Award read as follows: -

“13. After hearing learned counsel for the parties, it can be ascertained that as per testimony of Hazura Singh, PW2, the alleged eyewitness, the accident in question had taken place due to rash and negligent driving of tanker bearing registration no. JK-02R-1945 by respondent no.2 on account of applying brakes suddenly as a result thereof, Maruti car bearing registration no. PB-29A-6293 which was following the tanker also applied brakes but its driver could not control the car and it dashed against the tanker; however, had the driver of the



tanker in question applied sudden brakes, there would have been skid marks on the road but they are not visible as is evident from the photographs placed on record. It is clear from the perusal of police proceedings recorded in DDR No.17 as Ex.P1 that on receiving information regarding the aforementioned accident, police officials got photographed the accidented vehicles and there-after, the car was removed. It is also mentioned therein that this accident had taken place due to dashing of car against the rear portion of the tanker. It is further recorded therein that, no offence was found to have been made out as the accident in question had taken place by chance (Itfakia). The testimony of Hazura Singh, PW2, the alleged eyewitness does not appear to be reliable for the reasons that he appears to be an interested witness as he and petitioner no.1 used to work in the same office. As per the testimony of Pragati Garg, PW3, they were having the car in question since long and therefore, there was no reason for not identifying the registration number of the car in question by Hazura Singh, PW2, when he had visited the spot at the time of alleged accident and particularly when he retired as a security officer of UHBVL, Dhulkot, Ambala and had also seen the registration number of both the vehicles. Hazura Singh, PW2 has further deposed that he had told petitioner no.1 that accident in question had taken place in his presence and the same had taken place due to fault of tanker driver; meaning thereby, it was in their knowledge that the accident in question had taken place due to fault of driver of tanker but learned counsel for the petitioners has failed to convince this tribunal that when they were knowing the cause of accident, then why the same was not got recorded in DDR No.17 which was got



recorded at 10 AM on 12.5.2008. The learned counsel for the petitioners has also failed to convince this tribunal that when before recording the DDR No.17, it was in their knowledge that accident in question was witnessed by Hazura Singh, PW2, then what prevented them from telling the police authorities and further getting recorded in the DDR that accident in question was witnessed by the said Hazura Singh, PW2. Further as per the testimony of Hazura Singh, PW2, when the alleged accident had taken place, he was returning after attending party hosted by Dr. Kapoor; hence, under these circumstances, it was also incumbent upon the petitioners to have examine Dr. Kapoor to establish that on 11.5.2008, he had hosted a party and the same was attended by Hazura Singh, PW2 to lend credence to the arguments advanced by learned counsel for the petitioners. Dharam Pal, the petitioner no.1 had retired as Under Secretary from UHBVNL, Panchkula and it remained unexplained that why he did not lodge FIR against driver of the tanker when he had come to know from Hazura Singh, PW2 that the accident in question had taken place due to rash and negligent driving of tanker driver, as alleged or approached the higher police officials in this regard. It is also clear from the perusal of photographs as Ex.P11 and as Ex.P12 that car bearing registration no. PB-29A-6293 had dashed against rear portion of the tanker bearing registration no. JK-02R-1945, which appears to be parked in the kachha portion of the road which further stands corroborated from the photographs as Ex.R1 and Ex.R2 and the same have not been controverted. The contention of learned counsel for the petitioners that the accident in question had taken place due to sudden applying of brakes by the driver of the tanker in the



middle of the road is also misconceived because it is evident from the cutting of newspaper as Ex.R3, wherein, it is mentioned that as the driver of the car lost control over it, it hit against the tanker parked by the side of the road. It is also pertinent to mention here that statement of Pragati Garg, PW3 was recorded in the presence of her relatives; hence, by no stretch of imagination, it can be said that police officials may not have recorded her state- ment correctly as also due to her nervousness as contended by learned counsel for the petitioners.”

17. Learned counsel for the appellants has been unable to dispute the abovesaid facts and findings.
18. In view of the above, no ground is made out to interfere in the impugned Award. Present appeals accordingly stand **dismissed**.
19. Pending application(s) if any also stand(s) disposed of.

02.04.2026
Sunena

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No