



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-645-2013 (O&M)

Date of decision: 17.03.2026

Smt. Kamlesh & Others

...Appellant(s)

Vs.

Ajit Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. K.J.S. Bhullar, Advocate
for the appellants.

Mr. Lovepreet Singh, Advocate for
Mr. Sanjeev Kodan, 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, Jhajjar (hereinafter 'the Tribunal'), vide Award dated 03.10.2012 passed in MAC Petition No.42 dated 15.03.2011 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The four claimants are the widow, two minor children and father of deceased Sumesh, who was about 40 years old at the time of accident.

2. It was the pleaded case of the appellants before the learned Tribunal that deceased Sumesh had died due to the injuries suffered by him in a motor vehicle accident that took place on 27.12.2010 due to the rash



and negligent driving of the truck bearing registration No.HR-46-B-7526 (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 Id. Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties had concluded that the appellants have been unable to prove that the offending vehicle was involved in the alleged accident.

3. It is inter alia submitted by Id. counsel for the appellants that the Tribunal is patently wrong in its above-said conclusion as, in holding as above the Tribunal has ignored the vital evidence of eyewitness PW5 Mam Chand, who has proved that the accident in question had taken place due to the rash and negligent driving of the offending truck by respondent No.1. It is submitted that PW5 had even got his statement recorded before the Police. Even the Investigating Officer, Narpal Singh, Head Constable had appeared as RW1, who had stated that Challan/Report under Section 173 Cr.P.C. had been presented against the respondent No.1. RW1 had also stated that Site Plan (Ex.R1) had been prepared with the assistance of eyewitness PW5 Mam Chand Saini. However, all of the above evidence has been discarded and disbelieved by the learned Tribunal without giving any cogent reason.

4. Ld. Counsel further submits that the Id. M.A.C.T. has wrongly come to the conclusion that the truck No.HR-46B-7526 was not involved in the accident only on the ground that RW1 Constable Narpal Singh who had made a site plan, had deposed that he made the site plan on 4.1.2011 at the



instance of eye witness Mam Chand Saini. However, as per Section 173 Cr.P.C. report the statement of Man Chand was recorded on 18.1.2011 and through the statement of Mam Chand the number of the truck was revealed. The copy of the site. plan Ex.R1 does not mention name of Mam Chand which shows that Mam Chand did not meet the investigating officer on 4.1.2011 and rather statement of RW1 regarding site plan is by mistake.

5. Moreover, the Tribunal failed to appreciate that pursuant to registration of FIR, challan (Ex.P11) was filed; and charges under Sections 279 and 304A IPC have been framed against the respondent No.1 vide copy of Charges (Ex.P10) for driving truck and causing death of Sumesh. It is submitted that in these circumstances and in the face of this evidence, claim petition of the appellants could not have been dismissed.

6. 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 present appeal be dismissed.

7. 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.

8. Although the learned counsel representing the appellants has sought to set up a convincing case, however, the facts and evidence on record outweigh against the appellants. It is the contention of the appellants that the accident dated 27.12.2010 had been witnessed by PW5 Mam Chand, eyewitness. However, no explanation has been given by learned counsel for



the appellants that if that was so, why did PW5 make no statement before the Police; why did PW5 not inform the Police or any of the family members regarding the accident; and why did PW5 not give the number of the offending vehicle. Record reveals that PW5 did not emerge and remained silent for 22 days till 18.01.2011. PW5 got recorded his statement before the Police only on 18.01.2011 i.e. with a fatal delay of 22 days. No explanation whatsoever has been forthcoming from the learned counsel for the appellants to explain this delay. This would clearly indicate that alleged eyewitness PW5 is a procured witness.

9. Further, learned counsel for the appellants has placed reliance upon statement made by RW1 Head Constable Narpal Singh. However, there are too many loopholes in the case as set up by the appellants. RW1 had deposed that he had conducted investigation in the present case and had specifically stated that he had prepared Site Plan (Ex.R1) at the instance of Mam Chand PW5, eyewitness; and till 16.01.2011, he had no evidence regarding involvement of the alleged offending truck. However, a perusal of Ex.R1 shows that it bears the date 04.01.2011. Clearly therefore, on a joint reading of the above evidence, it would follow that PW5 eyewitness Mam Chand had met the Investigating Officer on 04.01.2011. No explanation is given by learned counsel for the appellants that when PW5 had met RW1 on 04.01.2011 itself, then why did he not disclose the details of the offending vehicle and also its driver to the Police on the said date. Contention of the appellant that the site plan does not bear the signature of Mam Chand and



therefore he was not present there, is without merit as it is even mentioned in the Challan that site plan was prepared on 4.1.2011 by the Investigating Officer along with PW5.

10. Learned counsel for the appellants has also contended that the owner and driver of the offending vehicle while appearing as RW2 and RW3 respectively, have admitted the involvement of the alleged offending truck in the accident in question. However, the said evidence of the respondents No.1 and 2 is totally contrary to the stance taken by them in their written statement wherein they have specifically pleaded that the alleged offending truck has been falsely involved. The said respondents have also denied that respondent No.1 was driving offending truck in rash and negligent manner.

11. In this background, mere factum of presentation of Challan (Ex.P11) or framing of charges (Ex.P10) against respondent No.1 cannot be construed to mean that the alleged rash and negligent driving of the alleged offending truck by respondent No.1, stands proven.

12. In view of the above, no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed**.

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

17.03.2026
Sunena

(NIDHI GUPTA)
JUDGE

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