



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-3258-2016 (O&M)

Date of decision: 08.04.2026

Devender

...Appellant(s)

Vs.

Vinod & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Pawan Kumar, Advocate for
Mr. Saurabh Arora, Advocate
for the appellant (through VC).

Mr. Lalit Garg, Advocate
for respondent No.3/Insurance Company.

NIDHI GUPTA, J.

The present appeal has been filed by the injured-claimant against the dismissal of his claim petition by the learned MACT, Rohtak (hereinafter 'the Tribunal'), vide Award dated 28.10.2015 passed in Claim Petition No.67 dated 05.07.2014 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act').

2. It was the pleaded case of the appellant before the learned Tribunal that he had suffered injuries in a motor vehicle accident that took place on 01.04.2014 at about 9 pm due to the rash and negligent driving of the Truck bearing registration No.NL-2J-3067 (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 on appraisal of the evidence at hand, had dismissed the claim petition.

3. It is inter alia submitted by learned counsel for the appellant that the learned Tribunal was in error in dismissing the Claim Petition as it has failed to properly appreciate the testimony of claimant/appellant who had sustained injuries in the accident. The Tribunal has also ignored the testimony of eyewitness Sanjay who appeared before learned Tribunal as PW-1 and his testimony with regard to accident goes unrebutted. The learned Tribunal has discarded his testimony on flimsy ground that as his testimony was recorded by police on 03.04.2014 so it can't be said that he witnessed the accident and noted down the number of the offending vehicle. As a matter of fact, accident occurred in night of 01.04.2014 and initially appellant was admitted at PGIMS Rohtak by said Sanjay only and then appellant was transferred to Medanta Hospital, Gurgaon on 02.04.2014. In evening time of 02.04.2014, police reached Gurgaon and statement of claimant was recorded. Then police came back to Jhajjar next day and statement of PW1 Sanjay was recorded and there is nothing wrong or unnatural procedure by Investigating Agency and by any stretch of imagination it cannot be thought that Sanjay is not eyewitness of the said accident.

4. The learned Tribunal has failed to appreciate the unshattered testimony of eyewitness who categorically deposed that it was only offending vehicle as mentioned in Claim Petition which was responsible for the



accident. Not only clear deposition of chief examination, but the said eyewitness also stood with same stand during his cross-examination also.

5. It is accordingly prayed that the impugned Award be set aside and Claim Petition be allowed with costs.

6. Per contra, learned counsel for the respondent No.3 opposes the submissions advanced on behalf of the appellant and submits that clear, cogent and coherent findings have been given by the learned Tribunal to hold that a collusive Claim Petition had been filed by the appellant. The appellant has nowhere been able to make out rash and negligent driving of the offending vehicle by the respondent No.1. Rather, the respondents No.1 and 2 have supported the case of the appellant thereby establishing the collusion between the parties. Learned counsel accordingly submits that the impugned Award suffers from no error; and the present appeal deserves to 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 appellant.

8. The pleaded case of the appellant before the learned Tribunal as mentioned in Para 2 of the Award is that: -

“2. As per the contents of the petition, claimant was going to his house at village Chiri from Police Line Jhajjar on motor-cycle bearing No. HR-12T-9085 on 1.4.2014. It is alleged that truck bearing registration No.NL-2J-3067 came from behind being driven by its driver-respondent No.1 in fast and rash and



negligent manner and dashed into the motor-cycle of the claimant near village Madana turning on Jhajjar-Rohtak road at 9.00 p.m. and due to this, the motor-cycle of the claimant hit the divider of the road and the claimant sustained multiple injuries. The claimant was taken to PGIMS, Rohtak by Sanjay son of Dharambir and subsequently the claimant was shifted to Medanta Medicity Hospital, Gurgaon for better treatment. Hence, this petition.”

9. In respect of the accident dated 01.04.2014, which is stated to have taken place at 9 pm, the appellant had registered FIR No.88 dated 02.04.2014 under Sections 279 and 337 IPC at Police Station Beri at 16:25 hours (Ex.P35) i.e. almost 19 hours after the accident. The said FIR is registered against an unknown vehicle and unknown person. The appellant has stated himself to be serving as Constable in Haryana Police.

10. However, subsequently the appellant has produced alleged eyewitness Sanjay, who appeared as PW1 who has stated that he was driving at a distance of 80 feet from the motorcycle of the appellant when the accident took place. PW1 has further stated that he had seen the registration number of the truck in the light of the vehicles which were passing. It is but trite that if PW1 Sanjay had seen the number of the offending vehicle and admittedly PW1 Sanjay is known to the appellant, then why did PW1 not mention the aforesaid details of the offending vehicle to the appellant at the time of registration of FIR, which had been registered a good 20 hours after the accident. It would therefore appear



that PW1 is a procured witness who had not actually witnessed the accident. Furthermore, the entire issue is clinched from the fact that respondents No.1 and 2 in their joint written statement have admitted presence of the truck at the spot at the time of accident. Thus, collusion between the appellant and the respondents no.1 and 2 is established.

11. Relevant observations of the learned Tribunal are contained in para 16 of the impugned Award, as follows: -

“16. From the above referred evidence, one thing is evident that if accident had taken place on 1.4.2014 and when the FIR was lodged on 2.4.2014 at 4.45 p.m., upto this time, the registration number of the offending vehicle was not known to the claimant who had lodged the FIR. If PW1-Sanjay was following the claimant-Devender on another motor-cycle, it would have been but natural for the complainant-petitioner to have mentioned these facts while getting registered the FIR and non mentioning of number of the offending vehicle in the FIR goes on to prove that PW1 Sanjay was not following the claimant at the time of alleged accident. If PW1 Sanjay had noted the registration number of the offending vehicle and had talked with the driver of the truck, there is not reason why the witness who was also the friend of the claimant would not divulge the details to the claimant at the time of lodging of the FIR. The statement of PW1 Sanjay was recorded by the police on 3.4.2014 and it was at this point of time that the registration number of the offending truck was mentioned to the police. Therefore, this appears to be a hit and run case where the insured vehicle has been got involved deliberately as claimant is serving in police department. Lest I forget, I must



mention that defendant Nos. 1 and 2 in their joint reply have admitted the presence of the truck with modification of the story that claimant came in front of the truck on the motor-cycle and directed the truck to be stopped, but the truck dashed into the motor-cycle of the claimant and this also shows collusion between the claimants and respondent Nos.1 and 2. Reliance can be placed upon Ravinder Kaur and others V. Jasvinder Singh, FAO No.2293 of 2003 decided by our own Hon'ble High Court on 19.2.2014 and Vinay Kumar and another V. State of Punjab 2015(2) Law Harald (P&H) decided by our own Hon'ble High Court on 11.3.2015.

Therefore, the Tribunal is of the opinion that the accident in question did not occur due to the rash and negligent driving of vehicle i.e. truck bearing registration No. NL-2K-3067. Hence, this issue is decided against the claimant."

12. Learned counsel for the appellant has been unable to dispute the abovesaid factual and legal position.

13. It may also be pointed out that an FIR No.83 dated 02.04.2014 under Sections 279, 337, 338 IPC at Police Station Beri was registered against respondent No.1/Vinod/driver of offending vehicle in respect of present accident dated 01.04.2014 on statement made by appellant/complainant/Devender. In the said FIR, respondent No.1 has been acquitted by the learned Judicial Magistrate, 1st Class, Jhajjar vide judgment dated 04.09.2017 on account of following findings:-

"7... ..In the present case the burden on the prosecution was to prove that it was the accused Vinod who was driving the alleged truck and the alleged truck was the offending vehicle



as well as the said truck was driven in a rash and negligent manner which is the main ingredient to prove for convicting an accused in the sections in which the present accused has been charge sheeted that are Section 279, 337 and 338 IPC.

To discharge this burden prosecution has examined as many as six witnesses but none of these witness had identified or had stated before the Court that he has seen the accused Devender while conducting the said accident. Even when complainant Devender appeared before the Court as PW4 then he also not identified the accused present in the court and stated in his cross-examination that neither he has seen the driver nor the truck number of the offending vehicle. Meaning thereby neither the complainant has identified the accused nor any eye witness is present before the court who can connect the present accused with the crime in question.

Secondly, in the present case it was also the burden of the prosecution to prove that the accused was driving the vehicle in rash and negligent manner. On perusing whole of the case file this fact is found nowhere mentioned and even in the complaint of the complainant also he has not mentioned that the said offending vehicle was being driven in rash and negligent manner. It is also important to note here that the report of mechanical expert which is on record as PW3/B of the offending vehicle that is truck, it is not mentioned that the said truck is damaged or any of its part is damaged due to said accident. Whatever may the reason the prosecution is failed to establish on record the connection of the present accused Vinod with the crime in question.

It is the settled proposition of law that the prosecution has to prove its case beyond reasonable doubt to get the accused



convicted but in the present case there is nothing on record by which the conviction of the accused Vinod can be asked for.”

- 13. In view of the above, no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed**.
- 14. Pending application(s) if any also stand(s) disposed of.

08.04.2026
Sunena

(NIDHI GUPTA)
JUDGE

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