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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-7698-2014 (O&M)

Date of Decision : 14.01.2026

Mahender

... Appellant(s)

Versus

Lala @ Narender Singh & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mohit, Advocate for
Mr. Sumit Sangwan, Advocate for the appellant.

Mr. Anil Ghanghas, Advocate and
Mr. Abhishek, Advocate for respondent Nos.1 and 2.

Mr. Shubham Gupta, Advocate for
Mr. Raj Kumar Bashamboo, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the injured claimant-appellant aggrieved by the impugned award dated 02.05.2014 passed by the Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'Tribunal') whereby his claim petition was dismissed.

2. Briefly the facts relevant to the present *lis* are that three people were traveling in a Jeep bearing Registration No.HNT-3444 which was being driven by respondent No.1 – Lala @ Narender Singh. Other occupants of the car were Hawa Singh (since deceased), Mahender (present claimant-appellant) and one Bhal Singh. On 31.05.2010, in the area of Tosham, the jeep is stated to have met with an accident due to the rash and negligent driving of respondent No.1 – Lala @ Narender Singh. In the said accident, Hawa Singh

lost his life and the present claimant-appellant received injuries. FIR (Ex.P14) was registered on the statement of Bhal Singh, who was also a passenger in the said jeep.

3. The claim petition was contested by respondent No.3-Insurance Company by denying that the driver was holding a valid and effective driving licence and took a stand that there was a violation of the terms and conditions of the insurance policy. Respondent Nos.1 and 2 were proceeded against *ex parte*.

4. On the basis of the pleadings of the parties, the following issues were framed :

- 1) Whether the accident in question took place on 31.05.2010 at about 7.00 a.m., due to rash and negligent driving of Jeep bearing registration No.HNT-3444 by respondent No.1 and it caused death of Hawa Singh ? OPP
- 2) If issue No.1 is proved in affirmative, what would be the amount of compensation payable to the petitioner and by whom ? OPP
- 3) Whether the present claim petition is not maintainable in its present form ? OPR
- 4) Whether respondent No.1 was not holding a valid driving licence and vehicle was being driven in violation of terms and conditions of insurance company at the time of accident ? OPR-3
- 5) Relief.

5. The Tribunal vide the impugned award held that there was delay in lodging the FIR for which no explanation was forthcoming. It was further

held that Bhal Singh who appeared as PW4 is a relative of Hawa Singh (since deceased) and there was no explanation coming as to why he did not lodge the FIR promptly. Though an explanation was given by PW4 that Hawa Singh who died in the accident was his father-in-law, whose condition was very serious due to the accident and that he was accompanying Hawa Singh at the hospital in Rohtak, however, the said explanation was held not worthy of credence. It had further been held that PW1 – Dr. Shantanu Rawat – had stated that injured Mahender was not referred to their private hospital on 31.05.2010 by any civil hospital. Accordingly, the claim petition was dismissed. Aggrieved by the same, the present appeal has been filed.

6. Learned counsel for the claimant-appellant would contend that the discharge summary was duly produced on the record as Ex.P2 as were the bills of the hospital as Ex.P6 to Ex.P13. Learned counsel would further contend that mere delay in lodging the FIR cannot be a ground for dismissal of the claim petition. Learned counsel has further contended that Dr. Shantanu Rawat, Medical Officer, Jindal Hospital, Hisar had stepped into the witness box as PW1 and had stated that the discharge card pertaining to the claimant-appellant herein was Ex.P2 and the follow-ups were Ex.P3 and Ex.P4. He has further stated in his statement that on 31.05.2010 the claimant-appellant came to the hospital with history of road-side accident and was suffering from moderate head injuries with left ear bleeding. Learned counsel would further contend that all the evidence led by the claimant-appellant has totally been ignored by the Tribunal.

7. Learned counsel for respondent Nos.1 and 2 would contend that the claimant-appellant in his cross-examination had stated that he had gone to a civil hospital and from there he had gone to the private hospital, however,

there is nothing on the record to show that he had gone to any civil hospital before being admitted in the private hospital.

8. I have heard the learned counsel for the parties.

9. In the present case the Tribunal has totally misdirected itself and dealt with the claim petition under the Motor Vehicles Act, 1988 as if it was deciding a criminal case. Hon'ble Supreme Court in the case of **Anita Sharma & Ors. vs. The New India Assurance Co. Ltd. & Anr. [2021 (1) RCR (Civil) 200]** has held as under :

"22. Equally, we are concerned over the failure of the High Court to be cognizant of the fact that strict principles of evidence and standards of proof like in a criminal trial are inapplicable in MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence in accident claim cases ought not to be to find fault with non-examination of some best eyewitnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true. A somewhat similar situation arose in Dulcina Fernandes v. Joaquim Xavier Cruz (2013) 10 SCC 646. wherein this Court reiterated that:

"7. It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pickup van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probabilities and certainly not on the basis of proof beyond reasonable doubt. (Bimla Devi v. Himachal

RTC [(2009) 13 SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101])"

(emphasis supplied)

23. *The observation of the High Court that the author of the FIR (as per its judgment, the owner-cum-driver) had not been examined as a witness, and hence adverse inference ought to be drawn against the appellant-claimants, is wholly misconceived and misdirected. Not only is the owner-cum-driver not the author of the FIR, but instead he is one of the contesting respondents in the Claim Petition who, along with insurance company, is an interested party with a pecuniary stake in the result of the case. If the owner-cum-driver of the car were setting up a defence plea that the accident was a result of not his but the truck driver's carelessness or rashness, then the onus was on him to step into the witness box and explain as to how the accident had taken place. The fact that Sanjeev Kapoor chose not to depose in support of what he has pleaded in his written statement, further suggests that he was himself at fault. The High Court, therefore, ought not to have shifted the burden of proof."*

10. A perusal of the evidence on the record clearly reveals that Dr. Shantanu Rawat, Medical Officer, Jindal Hospital, Hisar had stepped into the witness box as PW1 and had clearly stated that the claimant-appellant was admitted in the hospital with a history of road-side accident and was suffering from moderate head injuries and left ear bleeding. The MLR was also prepared by the said doctor. The claimant-appellant was discharged on 05.06.2010 and was advised for follow-up. The discharge card was exhibited as Ex.P2 and follow-up slips were exhibited as Ex.P3 and Ex.P4. The hospital bills were also exhibited as Ex.P6 to Ex.P13.

11. Further, merely because there was a delay in lodging the FIR would not be a ground *per se* to dismiss the claim petition. The author of the FIR had explained the delay by stating that he is the son-in-law of Hawa Singh (since deceased) and after the accident his father-in-law was in a serious condition and he was attending to his father-in-law at the hospital in Rohtak. The Tribunal has held that since there were other legal representatives and Hawa Singh being in a serious condition, he could have been looked after by his relatives therefore rejected the explanation given by Bhal Singh. The accident in the present case had taken place on 31.05.2010 and the FIR was registered on 04.06.2010 i.e. after a delay of five days. In motor accident cases delay in lodging the FIR would not be fatal to the claim. Hon'ble Supreme Court in case of **Ravi vs. Badrinarayan & Ors. [2011(2) RCR (Civil) 190]**, wherein there was a delay of 03 months in lodging the FIR, held as under :

“21. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance

than delay in lodging thereof supported by cogent reasons. ”

12. There was sufficient evidence on the record to show that the claimant-appellant herein had received injuries. His discharge card has been exhibited as Ex.P2 and follow-up slips have been exhibited as Ex.P3 and Ex.P4. The hospital bills have also been exhibited as Ex.P6 to Ex.P13 which find no mention or reference in the impugned award passed by the Tribunal.

13. The argument of the learned counsel for respondent Nos.1 and 2 that the claimant-appellant had stated in his cross-examination that he had gone to civil hospital, however, there is nothing on the record that he had gone to any civil hospital and he had directly gone to a private hospital, therefore, the entire story is doubtful, deserves to be rejected. Merely because a person chooses to go to a private hospital for his treatment would be no ground to dismiss the claim petition. PW1 - Dr. Shantanu Rawat, Medical Officer, Jindal Hospital, Hisar – had clearly stated that the MLR was prepared by him and it bears his signatures. In view of the overwhelming evidence, the Tribunal ought to have referred to and dealt with the entire evidence led by the claimant-appellant rather than dismissing the claim petition only on the ground of delay in lodging the FIR and the fact that the appellant had gone to a private hospital without any reference from a civil hospital.

14. In view of the above, the findings of the Tribunal on issue Nos.1 to 4 are set aside and the present appeal stands allowed. The impugned award dated 02.05.2014 is set aside and the matter is remanded back to the successor Presiding Officer of the Tribunal concerned for decision of the claim petition afresh, in accordance with law. The parties shall appear before the Tribunal concerned on **01.02.2026** at 10:00 am. The Tribunal shall afford two effective

opportunities to each of the parties to lead fresh evidence that they so desire, in addition to the evidence already led.

15. Pending applications, if any, also stand disposed off.

14.01.2026
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO