

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

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FAO-2079-2008(O&M)
Date of decision: 11.09.2025**Dharam Singh & Others****...Appellant(s)****Vs.****Kapil & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**Present:- Mr. S.S. Antal, Advocate
for the appellants.Mr. Punit Jain, Advocate
for respondent No.3.*********NIDHI GUPTA, J.**

Present appeal has been filed by claimants against the dismissal of their Claim Petition No.2 dated 18.01.2005 filed under Sections 163-A and 140 of the Motor Vehicles Act (hereinafter "the Act") by Motor Accident Claims Tribunal, Panipat (hereinafter 'the learned Tribunal') vide Award dated 18.12.2007. The 4 claimants are the parents and 2 minor children of deceased Ram Dutt.

2. The case as pleaded by the appellants in their Claim Petition before the Tribunal as recorded in the impugned Award reads as follows:-



“Claiming themselves to be the dependents of deceased Ram Dutt, who unfortunately expired after sustaining injuries in a motor vehicle accident on 31.5.2004, within the jurisdiction of police station Madhuban, Distt. Karnal, petitioner no.1 Dharam Singh being father, petitioner no.2 Kamala being widow, petitioner-no.3 Vinay being minor son, petitioner no.4 Binny being minor daughter, have instituted the present claim petition under section 163-A and 140 of the Motor Vehicles Act, 1988 for grant of compensation to the tune of Rs. 10,00,000/- against respondent no.1 Kapil, respondent no.2 Cholamandalam M.S. General Insurance Co.Ltd., being owner and insurer, respectively, of the motor cycle bearing chassis no. MD624AH1842D38204, Engine no.0H1D42038614 marka 'TVS Santra' with the averments that prior to his death deceased Ram Dutt was hale hearty and energetic man and was earning Rs. 3000/- per month being an agriculturist.

2. Since, Neelam widow of deceased Ram Dutt could not be arrayed as petitioner at the time of filing the present petition, so she has been implicated as respondent no.3 in the present claim petition.

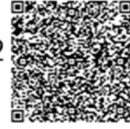
3. On the fateful day i.e. on 31.5.2004, said Ram Dutt had started on the aforesaid motorcycle and one Surender son of Ram Kumar accompanied him as pillion rider and they had gone from village Kutani to Karnal for purchasing seeds etc. They were accompanied by one Ishwar Singh Sarpanch of village Kutani who drove his motorcycle no. HR-06C-3206 separately. After purchase of seeds etc.,when they were on



their way back to village Kutani, at about 5.30 p.m, opposite Daha village on G.T road, an Esteem car being driven by its driver in a rash and negligent manner came from behind and said Ishwar had taken his motorcycle on kacha side and the said car struck the other motorcycle in its rear portion. Said Ram Dutt and Surender fell down on the road and sustained injuries. Since, Ram Dutt had sustained multiple grievous injuries and his companion Surender had only sustained minor injuries, so said Ishwar and Surender, started taking care of Ram Dutt and taking advantage of the situation, driver of the Esteem car ran away from the spot with his car and the registration number of the esteem car could not be noted. Thereafter, injured Ram Dutt was brought to Prem Hospital, Panipat and from there he was taken to VSIMHNS Hospital, New Delhi, where he unfortunately succumbed to the injuries. Regarding this accident, said Ishwar Singh lodged an FIR No.88 dated 1.6.2004 U/s 279,304-A of IPC against the unknown driver of esteem car.”

3. Learned Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties concluded that the appellants had been unable to prove that Ram Dutt had expired after sustaining injuries in motor vehicular accident that took place on 31.05.2004 due to involvement of motorcycle bearing chassis No.MD624AH1842D38204, Engine No.0H1D42038614 Marka ‘TVS Santra’.

4. Learned counsel for the appellants submits that the learned Tribunal was in patent error in dismissing the Claim Petition of the claimants. It is submitted that by way of amendment, the provisions of Sections 163-



A and 140 of the Act stand omitted. The claimants are therefore, now covered under Section 164 of the Act under the principle of No-Fault Liability. It is contended that as per the said provision, the appellants are only required to prove that the deceased had died due to the use of motor vehicle. It is submitted that the appellants had duly proved their case that deceased had died due to use of motor vehicle by leading sufficient and cogent evidence. It is submitted that the learned Tribunal failed to appreciate that the motorcycle involved in the accident was brand new, having no number allotted to it. Therefore, registration number was not mentioned in the FIR. However, the appellants had specifically impleaded the owner of the motorcycle namely Kapil son of Mahender Singh as respondent No.1 and even the insurer of the said motorcycle/respondent No.3 was duly impleaded. It is contended that the law under the provision/Act is very clear, and liability is imposed only for use of vehicle, and the appellants are not required to prove the negligence on part of the owner/driver. The case of the appellants is further buttressed from the evidence of eyewitness PW2 Ishwar Singh. However, without appreciating above-said facts, the learned Tribunal has dismissed the Claim Petition only on the ground that there was delay of 24 hours in registration of FIR; and because the eyewitness had failed to mention the chassis number and engine number of the offending motorcycle. Learned counsel contends that it is not possible for anyone to mention the chassis number or engine



number; and as stated above, the motorcycle involved in the accident was a brand new, having no number allotted to it.

5. Learned counsel for respondent No.2-Insurance Company opposes the submissions made on behalf of the appellants and submits that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

6. No other argument is made on behalf of the parties.

7. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellants.

8. It has to be noted that, although it has been pleaded that there was eyewitness Ishwar Singh present at the spot, yet FIR was registered against unknown driver and unknown Esteem car. Further, as per the contents of the FIR (Ex.P3), though the factum and manner of accident are almost the same as has been deposed by eyewitness PW2, yet there is no explanation as to why FIR had been registered against an unknown driver and an unknown Esteem car.

9. More importantly, although it has been alleged that the Esteem car was being driven by its driver in a rash and negligent manner, yet compensation is sought from the insurer of the motorcycle which was being driven by the deceased himself. Further, there are major discrepancies in the statements made by the alleged eyewitness from time to time. Though in his examination-in-chief PW2 has deposed that deceased Ram Dutt was driving



the motorcycle; however, in his cross-examination, he has deposed that the motorcycle which was involved in the accident was being driven by Surender. Even there is no explanation of delay of 24 hours for registration of the FIR. Even no document has been placed on file to show that after the accident, the alleged motorcycle had been taken in possession by the Police in connection with the investigation pertaining to the FIR. Even no Mechanic Report has been produced by the appellant to prove the involvement of the motorcycle. Thus, the appellants had failed to establish that the alleged offending motorcycle was involved in the accident in question. Admittedly, the Esteem car which had allegedly caused the accident, has not been traced.

10. In view of the above, no ground is made out to interfere in the impugned Award.

11. Present appeal accordingly stands **dismissed**.

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

11.09.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)

Judge