



*FAO-6545-2011 (O&M)*

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

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**FAO-6545-2011 (O&M)**

Date of decision: 20.05.2025

Balwinder Kaur and another

... Appellants

Vs.

Union of India and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. H.S. Dhandi, Advocate for the appellants.

None for the respondents.

**SUVIR SEHGAL J.**

1. Aggrieved by award dated 06.06.2011, whereby claim petition preferred by the claimants-appellants under Section 166 of the Motor Vehicles Act, 1988 (for short 'the MV Act') has been rejected, they have approached this Court, by way of instant appeal.

2. Mr. H.S. Dhandi, counsel for the appellants submits that on 26.06.2010, Rupinder Kaur daughter of the claimant-appellant was driving a Suzuki Access scooty, when a heavy army vehicle with registration No. 09C-085667K took a sharp right hand turn and hit the scooty. He states that Rupinder Kaur succumbed to her injuries at the spot and the unfortunate accident was witnessed by Avtar Singh, who lodged FIR Ex.P-1. He urges that Motor Accident Claims Tribunal,



Patiala (for short 'the Tribunal') erred in dismissing the claim petition by relying upon the affidavit Ex.PW2/A, executed by Avtar Singh and has ignored the registration of a criminal case. He asserts that a departmental inquiry was conducted against Om Parkash, driver of the offending vehicle, by the army authorities and it was found that the accident had taken place due to his negligent driving. It is his argument that the Tribunal has failed to appreciate vital documents, while rejecting the claim petition.

3. Despite service, there is no representation on behalf of the respondents.

4. I have heard counsel for the appellants and considered his submissions.

5. From the evidence adduced by the parties, it is evident that Rupinder Kaur was driving scooty, which was hit by an army vehicle and she died as a result of the injuries sustained by her in the accident. Her post mortem report has been proved on record as Annexure P-2. A criminal case was registered on the statement of Avtar Singh and after investigation, an untraced report Ex.P-5, was submitted by the Investigating Agency on the basis of an affidavit Ex.R-1, executed by Avtar Singh, deposing that a settlement had taken place. In ***Ravi Versus Badrinarayan and others, (2011) 4 SCC 693***, Supreme Court has held that lodging of an FIR proves the factum of accident so as to enable a victim to lodge a case for compensation under the MV Act. Mere fact that driver of the offending vehicle was not chargesheeted and an



untraced report was submitted that also on the basis of a settlement arrived at between the parties, does not lead to the conclusion that the accident did not take place. Tribunal has erred in giving undue weight to the compromise, which was arrived at between the parties in order to save Om Parkash, driver of the offending vehicle, so that he does not lose his employment with the army authorities.

6. A young life has been lost in a road accident, which has been established. It was incumbent upon the Tribunal to determine the issue of rashness and negligence in the driving on the basis of the evidence adduced by the parties and not to get influenced with the settlement and untraced report submitted by the police. Finding of Court of Inquiry, Ex.R-4, conducted against Om Parkash, which shows that driver was blameworthy, is required to be considered by the Tribunal, while determining the issue of negligence. Non-consideration of the relevant documents leaves no other option with this Court but to set aside the award passed by the Tribunal and remit the appeal for adjudication afresh.

7. For the foregoing reasons, impugned award dated 06.06.2011 is set aside and matter is remitted to the Tribunal to decide the claim petition afresh. Liberty is also granted to both the parties to adduce additional evidence, they intend to rely upon before the Tribunal.

8. Appeal as well as pending application(s), if any, are disposed of.



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9. Parties are directed to appeared before the Tribunal on 15.07.2025 at 10:00 am, for further proceedings in accordance with law.

**20.05.2025**  
pooja saini

**(SUVIR SEHGAL)**  
**JUDGE**

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No