



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

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FAO No.4707-2012 (O & M)

Date of decision :-16.01.2025

Manjit Kaur and others

.....Appellants

Versus

Jastar Ali and others

.....Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vipul, Advocate for
Mr. Ashwani Arora, Advocate
for the appellants.

None for the respondents.

NIDHI GUPTA J. (Oral)

The present appeal has been filed by the claimants against the order dated 13.9.2011 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal') whereby the claim petition bearing MACT No.85 dated 09.10.2006, filed under Section 166 of the Motor Vehicles Act (hereinafter referred to as 'the Act'), has been dismissed.

Brief facts of the case are that the present claim petition was filed by the four claimants being the 49-year-old widow; 28 year old son; 24 year old son; and 70 year old mother of the deceased Gurjant Singh, with the allegations that he had died due to the injuries suffered by him in a motor vehicle accident that took place on 15.8.2006, due to the rash and negligent driving of Mahindra Scorpio no. PB-23-D-7474 (hereinafter referred to as 'the offending vehicle'),



which was being driven by respondent no.1, owned by respondent no.2, and insured by respondent no.3. Vide the impugned order dated 13.9.2011, the learned Tribunal has dismissed the said claim petition.

Learned counsel for the appellants submits that the claimants had led sufficient evidence before the learned Tribunal to establish that the accident in question had taken place due to rash and negligent driving of the offending vehicle by the respondent No.1- Jastar Ali. It is submitted that though the factum of accident was doubted by the respondents, however, the appellants had proved their claim. The correctness of the claim of the appellants is also made out from the fact that the driver of the offending vehicle was also facing criminal trial for the accident in question. In proving their case, the appellants had relied upon the statement of the eye-witness Naresh Kumar, who had disclosed the registration number of the offending vehicle to the police. However, he could not be produced by the appellants before the learned Tribunal as he had died during the pendency of the claim petition. It is accordingly submitted that the claim petition has been wrongly dismissed by the learned Tribunal. In support of his contentions, learned counsel for the appellants has relied upon the judgment of Hon'ble Supreme Court in *Janabai and others vs. ICICI Lombard General Insurance Co. Ltd. 2022 ACJ 2003*.

Learned counsel for respondent No.3-Insurance Company vehemently opposes the prayer made on behalf of the appellants and submits that the claim petition has been filed only with a view to collect compensation from the Insurance Company. It is



submitted that no reliance can be placed upon the criminal proceedings. Learned counsel substantiates his contention by submitting that the FIR No.142 dated 16.8.2006, under Sections 279, 337, 427 IPC and 304-A IPC, was registered regarding the accident in question on the basis of statement of Claimant no.2 namely Tejinder Singh s/o deceased Gurjant Singh, who is stated to be eye witness to the accident. It is contented that however, the very presence of Tejinder Singh at the spot is doubtful as he has not mentioned the registration number of the offending vehicle in the FIR and even the name of the driver has not been given. Even it is nowhere disclosed as to how the claimants subsequently discovered the number of the offending vehicle and the name of the driver. Even otherwise, in the criminal trial, respondent No.1 has been acquitted. It is submitted that the falsity of the case forth by the claimants is further made out from the fact that it has been averred by them that the deceased was taken to the hospital by said eyewitness Tejinder Singh. However, the hospital records bear the name of some other person who had brought the deceased to the hospital. As such, the very presence of Tejinder Singh at the spot has been doubted by the learned Tribunal. Accordingly, dismissal of the appeal has been prayed for.

No other argument is raised on behalf of the parties.

I have heard learned counsel for the parties and perused the case file in great details.

The brief facts of the case are that the present claim petition was filed by the four claimants claiming thereby that the deceased Gurjant Singh had died due to the injuries suffered by him in



a motor vehicular accident that took place on 15.8.2006 due to the rash and negligent driving of the offending vehicle by respondent No.1-Jastar Ali. The said offending vehicle was owned by respondent No.2-Anand Kumar and insured by respondent No.3-Oriental Insurance Company Ltd. The claimants before the learned Tribunal were the 49 years old widow; 28 years old son; 24 years old son; and 70 years old mother of the deceased Gurjant Singh. The case of the appellants before the learned Tribunal was as follows: -

“...It is prayed that on 15.8.2006 Tejinder Singh, son of Gurjant Singh and Gurjant Singh son of Sewa Singh had come to G.T. Road Sirhind for their domestic work on their respective scooters and after finishing their work they were returning to their village Mandour. Gurjant Singh was on scooter No. PB-23-C-6856 whereas Tejinder Singh was on his scooter No. PB-23-C-6056. The scooter of Gurjant Singh was 100 yards ahead of scooter of Tejinder Singh. At about 6.30 PM, when they reached a little ahead of Bara chowk, G.T. road Sirhind, a Scorpio Vehicle No. PB-23-D-4747 came from Sirhind side without blowing any horn in a rash and negligent manner, driven by respondent no. 1 and struck against the scooter of Gurjant Singh. As a result of the impact Gurjant Singh fell down on the road and become unconscious. The driver of the Scorpio vehicle No. PB-23-D-4747 fled away from the spot after causing the accident. Tejinder Singh took Gurjant Singh, after arranging for a vehicle, to Civil Hospital Fatehgarh Sahib with the help of passersby. Gurjant Singh was referred to PGI Chandigarh where he remained admitted till



19.8.2006 and at 9 PM on 19.8.2006. Gurjant Singh succumbed to his injuries. FIR No. 142 dated 16.8.2006 under Section 279/337,427 IPC had been registered against respondent No. 1 to which offence under Section 304-A IPC was also added. It is further prayed that deceased who was aged about 50 years, was employed with Market committee, Sirhind and was drawing Rs.20,221- per month as salary. He was also earning Rs. 15,000/- per month from agriculture. The claimants were dependent upon the deceased. Claimant No. 3 is handicapped and was fully dependent upon Gurjant Singh for his daily needs. On these averments compensation of Rs.50 lacs has been sought by the claimants...”

The said claim was resisted by respondent No.3- Insurance Company. On the basis of pleadings of the parties, the following issues were framed by the Id. Tribunal: -

- “1. Whether Gurjant Singh died in an accident which had taken place on 15.8.2006, at about 6.30 PM in the area of Barra Chowk, Sirhind on account of rash and negligent driving by respondent No. 1 of vehicle Mahindra Scorpio No. PB-23-D-7474? OPP.*
- 2. Whether the claimants are entitled to received the compensation being legal representatives of deceased Gurjant Singh, if so, how much and from whom? OPA.*
- 3. Whether driver of above referred vehicle Scorpio was not holding valid and effective driving licence at the time of accident? OPR-3*



4. *Whether the claim petition is bad for non joinder of necessary parties? OPR-3*

5. *Relief”*

On the basis of the evidence both oral and documentary led by the parties, the learned Tribunal has dismissed the claim petition.

The primary grounds for dismissal of the claim petition of the appellants are encapsulated in para 27 of the impugned Award as follows: -

“xxx xxx xxx

27. *Similarly, the Tribunals more often, than not, accept the testimony of the alleged eyewitness without finding much fault with the same, if the involvement of the offending vehicle is prima facie made out from the facts and circumstances of the case. In the Instant case however, a number of factors have come together as to falsify the version of claimants about the involvement of Scorpio vehicle No. PB-23-D-4747 in the instant case and about the respondent No. 1 being the driver of the said vehicle. A brief enumeration of the said circumstances may be made as follows:-*

a) *as per Tejinder Singh, eye witness, he was coming behind his father Gurjant Singh when Gurjant Singh was hit by Scorpio vehicle No. PB- 23-D-4747 and fell down on the road unconscious. Tejinder Singh with the help of passersby took the injured to Civil Hospital and from Civil Hospital Fatehgarh Sahib, injured was referred to PGI Chandigarh. However, perusal of extract of hospital register Ex. R-2 reveals*



that Gurjant Singh was taken to Civil Hospital by Harvinder Singh employee of Police Ambulance stationed at Madhopur Chowk.

- b) *As per the medical record of PGI Produced by Shri Balkar Singh, Criminal Ahlmad of the court of JMIC, Fatehgarh Sahib, it was again Jatinderpal Singla friend of patient who is recorded to have brought the patient to PGI. It is un-believable that the presence of the son of victim would not be recorded either in the Civil Hospital Fatehgarh Sahib or in the record Ex. RW2/A of PGI, Chandigarh, had the son been actually present these.*
- c) *Another relevant circumstance is that though Tejinder Singh has denied having plied a Taxi prior to the accident, Manjit Kaur claimant No. 1 has admitted that Tejinder Singh was operating a private car and used to oblige people by giving other cars in case of urgency of other people. Tejinder Singh has admitted in his cross examination that he had recorded in his statement Ex. R-1, given to the Investigator, that he could identify Scorpio vehicle No. PB-23-D-4747 immediately after the accident as it belonged to their stand (Adda) and this number was in his memory. In the backdrop of this subsequent stand of Tejinder Singh about being able to Identify the Scorpio vehicle No. PB-23-D- 4747 immediately after the accident, his failure to give the number of the said vehicle or its description or the*



name of the driver or even the fact that the Scorpio vehicle No. PB-23-D-4747 which caused the accident belonged to their stand/Adda, would show that the said Scorpio vehicle No. PB-23-D-4747 was never involved in the accident. As per Manjit Kaur, her children and husband were known to respondents No. 1 and 2 who reside in a village at a distance of 4 KM from the village of Gurjant Singh. In view of these facts it is unbelievable that Tejinder Singh would not have given some identification of the vehicle or the driver at the time of registration of FIR. (Emphasis added)

xxx xxx xxx”

From the above findings, it emerges that Tejinder Singh was allegedly coming behind the deceased at the time of accident. Yet, he is not the one who took the deceased to the hospital. Admittedly, the hospital records bear the names of some other persons who brought the deceased to the hospital. Further, Tejinder Singh was witness to the accident, who was also familiar with the offending vehicle as it belonged to his Adda/Taxi stand; and he was also known to the respondents no.1 and 2 who reside in the same village. Yet, at the time of registration of FIR Tejinder Singh is unable to provide the number of the vehicle or identify respondent no.1 as the driver of the offending vehicle. Needless to say, all these factors cast a shadow of doubt on the story put forth by the claimants. Even otherwise, as already noticed above, admittedly, respondent No.1 stand acquitted in the criminal trial. Ld. counsel for the appellants is unable to



controvert or deny the above said findings of the learned Tribunal. On repeated queries by this Court, learned counsel for the appellants informs this Court that the registration number of the offending vehicle and the name of respondent No.1 was found by Tejinder Singh on the basis of information given to them by the now deceased eye-witness Naresh Kumar, who had disclosed the said information in his statement made under Section 161 Cr.P.C. in the criminal proceedings. However, learned counsel for the appellants is unable to provide the copy of the said statement of Naresh Kumar and is therefore unable to substantiate the said claim. In any event, even if the said submission of the learned counsel for the appellants is accepted, there is still no explanation given as to why the said fact was not mentioned by Tejinder Singh during his testimony before the learned Tribunal.

Therefore, keeping in view the above noted facts, the present appeal is hereby **dismissed**.

Pending application(s), if any, shall stands disposed of.

January 16, 2025

Vijay Asija

(**NIDHI GUPTA**)

JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No