

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****204****FAO-2822-2011(O&M)****Date of decision: 08.05.2025****Sunita Devi and others****...Appellant(s)****Vs.****Ramesh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Promila Nain and
Mr. Mohinder S. Nain, Advocate
for the appellants.

*********NIDHI GUPTA, J.**

The present appeal has been filed by the claimants against the dismissal of their claim petition No. 156 dated 29.09.2009 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), by the MACT, Bhiwani (hereinafter referred to as 'the Tribunal'), vide Award dated 17.12.2010. The 3 claimants are the widow and two minor children of the deceased Devender Singh.

2. The case as pleaded by the appellants is that deceased Devender, 36 years old was a Constable with Haryana Police and was posted at Police Station Julana, District, Jind. On 25.06.2009, he alongwith his brother Bijender was coming from village Alakhpura on their motorcycle. The motorcycle was driven by Devender. At 8:15 AM, they were 2 kilometers away from Bawani Khera toward Hansi when a vehicle came from Bhiwani side in a rash and negligent manner and caused the



accident. Devender suffered serious injuries which proved fatal. Surender Singh/PW2 got an FIR registered on the same day. It was pleaded that Devender Singh was getting Rs. 15,016/- per month as salary and had additional income and his total income from all sources was Rs. 31,000/- per month. It was pleaded that the accident was caused by respondent No.1. The claimants are seeking compensation of Rs. 50,00,000/-.

3. The learned Tribunal on the basis of pleadings and evidence adduced before it concluded that it was not proven on record that the deceased-Devender Singh had died due to the injuries suffered by him in the motor vehicular accident of 25.06.2009 due to the rash and negligent driving of Car Fiesta bearing registration No.HR-16G-2019 (hereinafter referred to as “the alleged offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3.

4. Learned counsel for the appellants submits that learned Tribunal was in patent error in holding that appellants were unable to prove the accident in question only on the ground that FIR was registered against unknown person and unknown vehicle. Learned counsel submits that learned Tribunal has failed to properly consider the fact that report under Section 173 Cr.P.C. was filed against respondent No.1 and that he was facing trial. It is contended that therefore, the claim petition of the appellants has been wrongly dismissed. It is accordingly prayed that the present appeal be allowed; and impugned Award dated 17.12.2010 be set aside.

5. No other argument is raised on behalf of the appellants.



6. I have heard learned counsel for the appellants and perused the case file in great detail.
7. I find no merit in the sole argument advanced on behalf of the appellants. It is undisputed fact that the FIR was registered on statement made by Surender Singh/PW2 who was uncle of the deceased. The FIR was registered after a delay of 2 hours against unknown person and unknown vehicle. Surender Singh in his affidavit Ex. PW2/A has stated that he and his nephew deceased Davinder Singh and Bijender were going to village Alakhpura. He has stated that he was on a separate motorcycle and Bijender's motorcycle was ahead, and he found that Devender Singh had been hit by an unknown vehicle. He stated that he sent his nephew to the village for giving the information; and that he had not seen the accident. In his affidavit, PW2 also stated that he had not lodged the FIR against respondent No.1.
8. Though statement of Surinder Singh is discrepant, however be that as it may, as per the appellants, the accident in question was witnessed by brother of the deceased, namely Bijender, who is stated to have even noted down the details of vehicle. If that was so then what forbade Bijender to disclose this information to the appellants, or to the police. The appellants had sought to explain non-disclosure of information by Bijender by submitting that Bijender had gone to Haridwar for the last rites of the deceased. Bijender has admitted that his statement was taken by the Police on on 04.07.2009. However, the said statement dated 04.07.2009 has not been placed on record by the appellants. The appellants failed to lead any



evidence before the learned Tribunal as to how and in what manner was the information regarding the identity of respondent No.1; as also offending vehicle was discovered by them. It is but logical that if Bijender was a witness to the accident, then even if details of the offending vehicle such as number and identity of driver there could not be noted, at least make and colour of the vehicle would be known to Bijender. However, even these were not mentioned by him. It has been stated in the FIR that complainant Surender Singh had sent eyewitness Bijender to inform the appellants. If that was so, then why did Bijender not disclose the details of the offending vehicle to his uncle Surender Singh. It is reiterated that even if details such as registration No. etc. could not have been provided atleast make and colour of the alleged offending vehicle could have been mentioned by the eyewitness Bijender to complainant Surender Singh which could then have been mentioned by him in the FIR. It can also not be ignored that respondent No.1 was arrested 2 months after the accident on 10.08.2009. Details of the offending vehicle and driver were provided only after 2 months of the accident. There is nothing to indicate that when and how said details were received by the claimants. As such, it was correctly held by learned Tribunal that the appellants were unable to prove that the accident in question had been caused due to negligence of respondent No.1 The claim petition has accordingly been rightly dismissed as there are several unexplained discrepancies in the case put forth by the appellants.



9. In view of the above, no ground is made out to interfere in the impugned Award dated 17.12.2010. The present appeal is hereby **dismissed.**

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

08.05.2025

Divyanshi

(NIDHI GUPTA)

JUDGE

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