



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

**117**

**FAO-65-2018 (O&M)  
Date of decision: 11.08.2025**

**Majeed**

**...Appellant(s)**

**Vs.**

**Afjal Khan and others**

**...Respondent(s)**

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Ashish Gupta, Advocate  
for the appellant (through V.C.)

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**NIDHI GUPTA, J.**

**CM-199-CII-2018**

Present application has been filed under Section 5 of the Limitation Act for condonation of delay of 18 days in filing the appeal.

2. Heard.

3. In view of the averments mentioned in the application which is duly supported by an affidavit of the applicant/appellant, the same is allowed and the delay of 18 days in filing the appeal is condoned.

**FAO-65-2018 (O&M)**

The present appeal has been filed by the injured-claimant against the dismissal of his claim petition by the learned MACT, Mewat (hereinafter 'the Tribunal'), vide Award dated 11.07.2017 passed in MACP



Case No. 49 dated 04.09.2014 filed under Section 166 of the Motor Vehicles Act.

2. Learned counsel for the appellant submits that learned Tribunal had dismissed the appellant's claim petition on the following three-fold grounds: -

(a) that there was delay of 9 days in registration of FIR;

(b) that previous claim petition had been withdrawn by the appellant; and

(c) that no mechanical report had been presented by the appellant.

3. Learned counsel submits that the evidence on record bears out that all the aforesaid three grounds are not maintainable. It is submitted that the accident in question had taken place on 26.05.2011. Thereafter, the appellant was discharged from hospital on 02.06.2011; and the FIR was registered immediately thereafter, on 04.06.2011. It is accordingly submitted that there was no delay in registration of FIR. It is argued that even otherwise, Hon'ble Supreme Court in numerous judgments has held that mere delay of registration of FIR would not constitute sufficient ground for dismissing the claim petition. Learned counsel also submits that in the accident in question, appellant had suffered grievous injuries including amputation of his toe. Therefore, learned Tribunal was in error in dismissing the claim petition. It is accordingly prayed that the present appeal be allowed; and impugned Award dated 11.07.2017 be set aside.



4. No other argument is raised on behalf of the appellant.
5. I have heard Id. counsel and perused the case file in detail.
6. I find no merit in the submissions made on behalf of the appellant. It was the pleaded case of the appellant before the learned Tribunal that on 26.5.2011 at about 10.30 a.m., the appellant and his son namely Jabir were coming to their village Ghasera from village Jaisinghpur on motorcycle bearing registration No. HR-27B-5453 after finishing their personal work and the motorcycle was being driven by the appellant, at a slow and moderate speed and when at about 11 a.m. they reached Chilawali Nuh road in the area of Police-Station Nuh then the offending vehicle bearing temporary registration No. HR-99HN-6315, Engine No. 1606887 and Chassis No. 368024 came from Nuh side and hit the motorcycle due to which the appellant sustained grievous and serious injuries on his body and Jabir also fell down on the unmetalled portion of the road and after seeing the accident, the crowd also gathered there. The respondent No.1 stopped his vehicle at some distance from the spot and Jabir noted the registration number of the vehicle as HR-99HN-6315 but the respondent No.1 fled away from the spot. The motorcycle of the appellant was also totally damaged due to the accident. A criminal case bearing FIR No.283 dated 4.6.2011 under Sections 279 and 337 IPC was registered regarding this accident in Police Station Nuh.
7. It was further pleaded by the claimant that prior to the accident, he was doing agriculture work and was also milk vendor and was earning Rs.8,000/- p.m. However, due to the serious injuries and fracture



suffered by him in the accident, he was unable to earn money, and he has no source of income to maintain himself. Accordingly, claim petition was filed seeking compensation of Rs.20 lacs.

8. As noted above, accident in question had taken place on 26.05.2011 at about 10:30 a.m. As per the record, after the accident, the appellant was taken to CHC hospital, Nuh from where the attendants of the appellant got him admitted in Vinayak Hospital, Sohna. Admittedly at the time of accident, appellant was accompanied by his son Jabir/PW2 eyewitness of the accident. There is nothing on record as to why FIR could not be registered immediately after the accident by the said eyewitness. It is also admitted by learned counsel for the appellant that appellant was discharged from hospital on 02.06.2011 yet, FIR was registered 2 days thereafter on 04.06.2011. There is no explanation for this delay as well. Even on 04.06.2011, FIR was registered on the statement made by Jabir. Thus, this could have been done in the first instance by Jabir on 26.05.2011 itself. However, there is no explanation forthcoming from the appellant side as to the cause of delay in registration of FIR. No doubt, Hon'ble Supreme Court in numerous judgments has held that delay in registration of FIR will not be sufficient ground for dismissal of claim petition, however facts and circumstances of each case has to be viewed individually. In the facts and circumstances of the present case, delay in registration of FIR will adversely affect the claim of the appellant.

9. This is further substantiated from the fact that it is recorded in the impugned Award that after the accident, the Investigating Officer/Head



Constable Surender Kumar had reached the residence of the injured where he had met the eyewitness Jabir. However, Jabir had refused to make statement at that time. Jabir had made a statement Ex.P8 in which it is mentioned that negotiations were going on with the 'car owner'. However, in Ex.P8, there is no mention of registration no. or owner of the offending car. Accordingly, learned Tribunal has recorded that *"There is nothing on record to show that eyewitness knew the owner of the offending vehicle and it is not the case of the petitioner that owner of the offending vehicle had reached the hospital. So, the version given in the application Ex.P8 is highly concocted. At least PW2 Jabir could have told the number of the offending vehicle to the I.OP./H.C. who had gone to his house."*

10. Even if the above facts be ignored, it is admitted fact on record that appellant had previously filed a claim petition on 15.05.2012. However, the first claim petition was got dismissed as withdrawn vide order dated 27.03.2014 Ex.R5, perusal of which reveals that on the said date i.e. 27.03.2014, case was fixed for pronouncement of order but learned counsel for the appellant had made a statement seeking withdrawal of the claim petition. Learned Tribunal was accordingly constrained to observe in the impugned Award that *"It appears that this second petition has filed to try his luck before different Presiding Officer. The act of petition speaks mala fide on the part of petitioner in filing this petition."*

11. Lastly, it had been pleaded by the appellant in the claim petition that in the accident in question, the motorcycle on which the appellant and Jabir were travelling, was damaged completely. However, no mechanical



report has been produced by the appellant to substantiate his above claim and show the alleged complete damage of the motorcycle of the appellant. The appellant has failed to produce the mechanical report despite the fact that several opportunities in this regard have been afforded to the appellant by this Court.

12. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.

13. Therefore, no ground to interfere in impugned Award dated 11.07.2017 is made out. The present appeal is hereby **dismissed**.

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

**11.08.2025**

Divyanshi

**(NIDHI GUPTA)  
JUDGE**

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