IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

249 **FAO-6284-2014 (O&M)**
Date of Decision : 12.05.2025

Harbans Kaur and Others ....Appellants

VERSUS

Surinder Singh and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amit Bansal, Advocate for
Mr. Hardip Singh, Advocate for the appellants.

Mr. Rohit Kataria, Advocate for
Ms. Anamika Mehra, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the claimant-appellants aggrieved by the dismissal of their claim petition by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as the 'Tribunal') vide award dated 24.12.2013.

2. Learned counsel for the claimant-appellants would contend that the only ground for dismissal of the claim petition is that there is a difference in the version as recorded in the DDR and the version in the claim petition. Learned counsel for the claimant-appellants would further contend that without even referring to the evidence led before the Tribunal, the claim petition has been dismissed.

3. *Per contra* learned counsel for respondent No.3 has contended that a totally different version was given in the DDR and hence the Tribunal has rightly dismissed the claim petition.

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4. None has put in appearance on behalf of respondent No.1 despite service and respondent No.2 was proceeded against *ex parte* vide order dated 06.11.2019.

5. Heard.

6. In the present case, the only ground for dismissal of the claim petition is that the claimant-appellants had given a totally different version to what had been recorded in the DDR (Ex.P1). Hon'ble Supreme Court in the case of **National Insurance Company Limited V/s Chamundeswari & Ors. [2021 (4) RCR (Civil) 494]**, while holding that weightage has to be given to the evidence recorded before the Tribunal over the contents of the FIR, held as under :

> *"8. It is clear from the evidence on record of PW-1 as well as PW-3 that the Eicher van which was going in front of the car, has taken a sudden right turn without giving any signal or indicator. The evidence of PW-1 & PW-3 is categorical and in absence of any rebuttal evidence by examining the driver of Eicher van, the High Court has rightly held that the accident occurred only due to the negligence of the driver of Eicher van. It is to be noted that PW-1 herself travelled in the very car and PW-3, who has given statement before the police, was examined as eye-witness. In view of such evidence on record, there is no reason to give weightage to the contents of the First Information Report. If any evidence*

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before the Tribunal runs contrary to the contents in the First Information Report, the evidence which is recorded before the Tribunal has to be given weightage over the contents of the First Information Report. In the judgment, relied on by the appellant's counsel in the case of Oriental Insurance Company Limited v. Premlata Shukla and Others, 2007 (13) SCC 476, this Court has held that proof of rashness and negligence on the part of the driver of the vehicle, is therefore, sine qua non for maintaining an application under Section 166 of the Act. In the said judgment, it is held that the factum of an accident could also be proved from the First Information Report. In the judgment in the case of Nishan Singh and Others v. Oriental Insurance Company Limited, 2018 (6) SCC 765, this Court has held, on facts, that the car of the appellant therein, which crashed into truck which was proceeding in front of the same, was driven negligently by not maintaining sufficient distance as contemplated under Road Regulations, framed under Motor Vehicles Act, 1988. Whether driver of the vehicle was negligent or not, there cannot be any straitjacket formula. Each case is judged having regard to facts of the case and evidence on record. Having regard to evidence in the present case on hand, we are of the view that both the judgments relied

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on by the learned counsel for the appellant, would not render any assistance in support of his case."

Similar view was taken in the case of **Halappa V/s Malik Sab [2018 (1) RCR (Civil) 279]** which reads as under :

"……..The High Court has proceeded to reverse the finding of the Tribunal purely on the basis that the FIR which was lodged on the complaint of the appellant contained a version which was at variance with the evidence which emerged before the Tribunal. The Tribunal had noted the admission of RW1 in the course of his cross-examination that the insurer had maintained a separate file in respect of the accident. The insurer did not produce either the file or the report of the investigator in the case. Moreover, no independent witness was produced by the insurer to displace the version of the incident as deposed to by the appellant and by PW3. The cogent analysis of the evidence by the Tribunal has been displaced by the High Court without considering material aspects of the evidence on the record. The High Court was not justified in holding that the Tribunal had arrived at a finding of fact without applying its mind to the documents produced by the claimant or that it had casually entered a finding of fact. On the contrary, we find that the reversal of the finding

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by the High Court was without considering the material aspects of the evidence which justifiably weighed with the Tribunal. We are, therefore, of the view that the finding of the High Court is manifestly erroneous and that the finding of fact by the Tribunal was correct."

Further, in the case of **Ramamurthy V/s National Insurance Co. Limited [Civil Appeal No.4612-2017 decided on 30.03.2017]** it was held as under :

"9. The High Court, in appeal, took into account the F.I.R. filed by the injured pedestrian (Ramesh), on which reliance was placed by the claimant to prove the accident. While relying on the said F.I.R., the High Court took the view that as the appellant-claimant himself has relied on the F.I.R., the entire version of the F.I.R. must be accepted. Inasmuch as in the F.I.R. filed by the injured pedestrian (Ramesh) rash and negligent driving was alleged against the appellant-claimant, the High Court took the view that the appellant-claimant had admitted the contents of the F.I.R., including the allegation of rash and negligent driving contained therein.

10. We fail to see as to how the High Court could come to the aforesaid conclusion and/or placed reliance on the F.I.R. as a substantive piece of evidence. The facts discussed by the learned Tribunal in coming to its

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conclusion, as noted above, were also not adverted to by the High Court in the impugned order."

7. A perusal of the impugned award reveals that no weightage has been given to the evidence recorded before the Tribunal. The Tribunal should have given weightage to the evidence recorded before it rather than the contents of the DDR (Ex.P1).

8. In view of the above, the impugned award cannot be sustained and the same is accordingly set aside. The matter is remanded to the successor Presiding Officer of the Tribunal concerned for decision afresh in accordance with law. The parties are directed to appear before the Tribunal concerned on **26.05.2025 at 10.00 am**.

9. Disposed off in the above terms. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

12.05.2025
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO

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