



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

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FAO-1978-2006 (O&M)

Date of Decision: July 11, 2025

Rukmani and others

.....Appellant(s)

Vs.

Lakhmi Chand and others

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Sandeep Kotla, Advocate
for the appellant (s).

Ms. Jasika Walia, Advocate for
Mr. Rosa Gupta, Advocate
for respondent No.2.

Mr. Simranjit Singh, Advocate for
Mr.H.S. Dhandi, Advocate
for respondent No.3.

SUDEEPTI SHARMA J. (ORAL)

The case is listed before this Court for referral to the “Special Mediation Drive-Mediation ‘For the Nation’ List”.

Learned counsel for the parties contend that the matter cannot be referred to Mediation and Conciliation Centre of this Court, since, the present appeal is filed against award dated 07.01.2006 whereby the claim petition filed by the appellants/claimants was dismissed.

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1. The present appeal has been preferred against the award dated 07.01.2006 passed in the claim petition filed under Section 166 of the Motor

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Vehicles Act, 1988 by the Learned Motor Accident Claims Tribunal, Hisar (for short 'The Tribunal') vide which the claim petition filed by the appellants/claimants for grant of compensation, was dismissed.

FACTS NOT IN DISPUTE

2. The brief facts of the case as mentioned in the claim petition are that on 29.02.1992 at about 7:15 a.m., Dharambir son of Surat Singh alongwith Jagbir Singh son of Udey Singh was going to Hisar and when they reached near Goyal Oil Mills on Hisar-Chandigarh road near village Juglan, they saw a scooter without number lying by the side of the road and a dead body was also lying there. They identified the dead body to be that of Dharambir son of Amarphool, resident of Faridkot. The matter was reported to the police. During investigation, respondent No.1 made extra judicial confession before Mahender Singh and Balwan Singh that he caused the accident with his Tata 407 bearing registration No.HR-16-4121 in which Dharambir died on the spot. FIR No.126 dated 29.2.1992, under Sections 279/304-A/427 IPC was registered at Police Station Sadar, Hisar qua this accident and respondent No.1 was challaned. It is alleged that the accident took place exclusively due to the negligent driving of TATA-407 being registration No.HR-16-4121 by respondent No.1.

3. Upon notice of the claim petition, respondents appeared and filed their separate written replies denying the factum of accident/compensation.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

1. Whether the accident in question resulting in death of Dharambir took place due to rash and negligent driving of Tata 407 bearing No.HR-16-4121 driven by respondent No.1? OPP.

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2. If issue No.1 is proved to what amount of compensation and from whom the petitioners are entitled to recover? OPP.

3. Relief.

Following additional issues No.3-A and 3-B were framed on 22.11.2004 and 21.10.2005 respectively:

3-A. Whether the driver Lakhmi Chand was not having a valid and effective driving licence at the time of accident ? OPR3

3-B. Whether the Insurance Company is not liable to pay any compensation on the ground mentioned in the written statement?

OPR-3

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim-petition. Hence, the claimants/appellants filed the present appeal for grant of compensation.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

6. Learned counsel for the claimants-appellants contends that the claim petition was dismissed on the ground that it was filed after delay of 5 ½ years and the claimants/appellants failed to prove that the accident took place due to rash and negligent driving of offending vehicle. Therefore, he prays that the present appeal be allowed and compensation be granted to the appellants/claimants.

7. *Per contra*, learned counsel for the respondents vehemently argues on the lines of the Award and contend that the claim petition has rightly been dismissed. Therefore, he prays for dismissal of the present appeal.

8. I have heard learned counsel for the parties and perused the whole record of this case.



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9. Relevant portion of the award passed by the Ld. Tribunal is reproduced as under:-

“Issue No.1:

10. The learned counsel for the Insurance Company vehemently contended that the petition has been filed by the petitioners in connivance with respondent No.1 and 2 just to grab compensation. In fact no accident as alleged has taken place. It was contended that the petition has been filed after an extraordinary delay of about 5 ½ years and no explanation whatsoever has been pleaded or come on record. It was pointed out that it was a blind accident against an unknown vehicle driven by unknown person but subsequently to help the LRs of the deceased who was a head constable. The case was registered after recording extra judicial confession of person who are admittedly close relatives of the deceased. The extra judicial confession does not inspire confidence and is self contradictory in nature.

11. On the other hand, the learned counsel for the petitioner Rukmani being poor widow was not aware of the consequences of filing late petition and there is sufficient circumstantial evidence to show that the accident has resulted from the rash and negligent driving of vehicle No.HR-16-4121 by respondent No. 1.

12. I have scanned the entire record carefully, I am of the considered view that the petitioner has got no case. It is really unfortunate and tragic that the deceased who was a police official was knocked down by some unknown vehicle driven by unknown person as is clear from the FIR Ex.P1 which was lodged by PW3 Dharampal. PW3 Dharampal stated that he saw a scooter lying alongwith a dead body on the left side of the road and it appeared to him that some

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vehicle had caused the death of Dharambir in accident. He has clarified in cross-examination that he had not seen the accident. It is also not disputed that subsequently during investigation, respondent No.1 Lakhmi Chand was arrested on 30.3.92 after recording extra judicial confession of PW Mahender and PW Balwan. On the very outset I would like to serve that PW4 Mahender has admitted in his cross-examination that he and PW Balwan have brotherhood relation with deceased Dharambir. PW4 Mahender also admitted that he used to sit together regularly with the deceased and used to meet him daily. The accident took place on 28.2.92 It is a suspicious circumstances that when the accident took place on 28.2.92 then he will disclose the confessional statement on 8.3.92 to the police officer to implicate his own relative which is unnatural and unbelievable. It is also interesting to note that the criminal trial ended in acquittal vide judgment dated 28.10.99 (Ex.R1) passed by ACJM. Hisar. PW4 Mahender admitted in his cross-examination that his statement was also recorded in the court in criminal case and he had given the same statement which he made in the court (MACT). He again said that he never appeared in the criminal case against Lakhmi. A perusal of judgment Ex. RI recorded by the ACJM Hisar goes to show that none of the witnesses i.e. PWs Mahender of Balwan who were the witnesses of extra judicial confession, appeared in the court. It is also recorded in the judgment Ex.R1 that the IO in his examination-in-chief has not deposed as to how he has connected the accused with the crime. The accused was acquitted as there was no incriminating evidence. Though, this court is not bound by the judgment recorded by the criminal court but it can be taken into consideration while deciding the said issue.



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13. *Further PW4 Mahender categorically stated that his confession was recorded by the police on 8.3.92 but according to PW7 Udey Singh ASI. The statement of PW4 Mahender was recorded on 10.3.92. He also admitted that the accused was not available from 10.3.92 to 30.3.92. Thus, keeping in view the facts and circumstances of the case. the statement of PW4 Mahender that Lakhmi Chand had orally told him that on account of his mistake he could not control Tata 407 No.HR-16-4121, cannot be believed. The extra judicial confession made before PW Mahender is suspicious and doubtful in the back drop of my above discussion and is totally uncorroborated.*

14. *In view of my aforesaid discussion, the petitioners have failed to prove that the accident in question resulting in death of Dharambir took place due to rash and negligent driving of Tata 407 No.HR-16-4121 by respondent No.1. Accordingly, this issue is decided against the petitioners.”*

10. A perusal of the award reveals that the claim petition was filed after an inordinate and unexplained delay of approximately five and a half years. No satisfactory explanation has been given by the claimants/appellants for this delay. The belated institution of the claim, coupled with weak and contradictory evidence casts a serious shadow of doubt over *bona fides* of the claim itself.

11. Moreover, a perusal of the impugned award reveals that the learned Tribunal has meticulously appreciated the evidence placed on record and rightly dismissed the claim petition filed by the appellants/claimants on the ground of inordinate delay in filing the claim petition and further on the ground that the appellants/claimants failed to establish, by cogent and reliable

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evidence, that the accident in question occurred due to the rash and negligent driving of the offending vehicle bearing registration No. HR-16-4121 by respondent No.1.

12. In view of the foregoing discussion, this Court finds no legal infirmity in the impugned award dated 07.01.2006 and the same is hereby upheld. Consequently, the present appeal is ***dismissed*** being devoid of any merit.

13. The Insurance Company is hereby directed to disburse the current scheduled fee to Mr. H.S. Dhandi, Advocate within a period of 20 days from the date of receipt of the copy of this judgment, in view of the order dated 18.07.2024 passed in FAO No.1682 of 2007, by this Court.

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

(SUDEEPTI SHARMA)
JUDGE

July 11, 2025
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Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No