



FAO-5371-2024 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO-5371-2024 (O & M)
Date of decision:10.07.2025

NEW INDIA ASSURANCE CO. LTD.

...APPELLANT

VS.

KANTA DEVI AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. R.C. Kapoor, Advocate and
Mr. Rahul Pathania, Advocate
for the appellant.

SUVIR SEHGAL, J.

1. Appellant-Insurance Company has assailed award dated 06.08.2024 passed by the Motor Accident Claims Tribunal, Jind (for short "MACT"), whereby a petition filed by claimants/respondents No.1 and 2 has been partly accepted.

2. Facts, in brief, leading to the filing of the appeal, are that on 22.01.2021, Jai Bhagwan was returning to his village on a motorcycle. A Maruti Swift ZDI car bearing registration No.HR-06-AE-1093 (hereinafter referred to as "the offending vehicle") being driven negligently by Satish Kumar suddenly applied its brakes in the middle of the road and Jai Bhagwan's motorcycle collided with the offending vehicle. Jai Bhagwan



was shifted to Government Hospital, Lakhanmajra, where he was declared dead. An FIR bearing No.11 dated 22.01.2021, Ex.P12, was registered under Sections 279 and 304-A, IPC at Police Station Lakhanmajra, District Rohtak. Claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for short - the MV Act”), claiming compensation, which has been partly accepted vide the impugned award and they have been awarded compensation of Rs.17,25,222/- along with interest @ 7.5 % p.a. The owner as well as driver of the offending vehicle and the appellant-Insurance Company has held jointly and severally liable to make the payment.

3. Counsel for the appellant has argued that FIR, Ex.P12, was registered against an unknown vehicle, but the claimants have falsely involved the offending vehicle. It is his argument that Jai Bhagwan, deceased, was partly responsible for the accident as he failed to maintain sufficient distance between the offending vehicle and his motorcycle, which led to the collision. He has placed reliance upon *Nishan Singh and others Versus Oriental Insurance Company Limited and others (2018) 6 SCC 765*, to contend that contributory negligence deserves to be attributed to the deceased.

4. I have heard counsel for the appellant and considered his submissions.

5. Accident was witnessed by Amit, PW2, who has testified that the offending vehicle was being driven rashly and negligently. He has categorically stated that the driver of the offending vehicle applied the brakes and Jai Bhagwan, who was following the traffic rules, collided with the car. He deposed that he had noted the registration number of the



offending vehicle and mentioned it in his statement recorded by the officer, who was investigating the FIR. Narender Singh, PW4 Ahlmad, produced the record of the FIR case, which shows that on the basis of the final report submitted by the investigating agency, charge has been framed against Satish Kumar, driver of the offending vehicle, and he is facing trial. Even though, the registration number of the offending vehicle was not mentioned in the FIR, but from the cumulative reading of the evidence of the eye witness and the record of the criminal case, it is evident that the vehicle driven by Satish Kumar was involved in the accident. In *Ravi Vs. Badrinarayan and others (2011) 4 SCC 693*, Supreme Court has held that lodging of the FIR proves the factum of the accident and enables a victim to lodge a case for grant of compensation. Evidence in the shape of the FIR, final report under Section 173, Cr.P.C., and the framing of charge against the driver of the offending vehicle, are sufficient to arrive at the conclusion that the accident was caused by the rash and negligent driving of Satish Kumar and Jai Bhagwan died as a result of the vehicular accident. Tribunal has further returned the finding that Satish Kumar possessed a valid driving license, Ex.P11, and the offending vehicle was insured vide policy, Ex.R3. Therefore, there is no error in the finding recorded by Tribunal under issue No.1, which is upheld.

6. Insofar as the second submission of the counsel for the appellant is concerned, reliance has been placed by him on the testimony of Amit, PW2, to urge that the deceased by partly responsible for the accident. Appellant-Insurance Company has failed to question the witness on the distance between the two vehicles. There is no material on the record to



show that Jai Bhagwan was driving the motorcycle in a careless manner. A perusal of the testimony of PW2, Amit shows that he has categorically deposed that the accident had taken place on account of the rash driving of Satish Kumar, driver of the offending vehicle and the deceased was driving on the left side of the road. There is evidence to show that distance between the two vehicles was 10 to 15 feet. The judgment in *Nishan Singh's case (supra)* is not attracted to the facts of the present case. The second argument raised by counsel for the appellant, is also rejected. No other argument has been raised by counsel for the appellant.

7. Finding no merit in the appeal, it is dismissed, though with no order as to costs.

10.07.2025
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No