



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

FAO-465-1996

Date of decision : 30.07.2025

BALWINDER KAUR

....Appellant

Versus

SUKHDEV SHARMA AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Ruchi Sekhri, Advocate (Amicus)
for the appellant.

None for respondents No.1 & 2.

Mr. Jitender K. Sehrawat, Advocate
for respondent No.3

PANKAJ JAIN, J. (ORAL)

Challenge is to the award dated 19.08.1995 passed by MACT,
Amritsar.

2. While returning finding on Issue No.1, Tribunal observed as
under:

“11. In paras nos.10 and 24 of the application the applicant has averred that the deceased Balbir was sitting alongwith the driver in truck No.PAT6817 and when the truck reached near village Chohan a tractor came from Amritsar side suddenly and the lights of the truck failed and had collided with the tractor as a result of that the deceased fell down on account of the opening of the window and died at the spot and the deceased had died due to negligence on the part of the respondents whereas P.W.3 Baldev Singh has stated that on 5.6.1992 he was coming from Jalandhar to

Amritsar on truck no.PAT 6817 and when he reached five kilometers behind Jandiala, the lights of the truck went off and the tractor was coming from the opposite side and it was being driven rashly and negligently and the tractor struck against the truck as a result of which the truck was damaged and due to this impact, his truck over turned and window of the truck opened and his brother Balbir Singh fell out of the window and came under the truck and died at the spot. So it has not been pleaded in the application that the accident had taken place on account of the negligence of the tractor driver, and the evidence produced to this effect that the accident had taken place on account of the negligence of the tractor driver by the applicant is beyond her pleadings. Otherwise too, the applicant was required to have impleaded the tractor driver, owner and the insurance company with which the tractor was insured, which is the necessary party. Since the applicant in her pleadings has pleaded negligence on the part of the truck driver but perusal of the evidence produced by her shows that the accident had taken place on account of the negligence of the tractor driver. So the application of the applicant is not maintainable. In this view of the matter the decision cited as Mohammad Arshad Versus M/s. Naimudding Nasimyddin and another 1990 A.C.J. 696 may be read. Ergo, this issue is decided against the applicant and in favour of the respondents.

3. Even if whole of the case of the claimant is taken on its face value, PW3 Baldev Singh brother of the deceased who was driver of the Truck stated that the accident was caused due to rash and negligent driving of the driver of the tractor. However, neither owner, nor driver and nor the insurer of the tractor, were impleaded. Thus, no exception can be taken to the findings recorded by the Tribunal. However, this fact remains undenied that deceased died in a motor-vehicular accident and the truck in which he was travelling was insured truck. Thus, the claimant is held entitled for

compensation under 'no fault liability' amounting to Rs.50,000/-. In terms of Section 140 of the Motor Vehicles Act, 1988, the compensation shall be paid by the respondents jointly and severally.

4. Instant appeal is disposed off accordingly.

July 30, 2025

(Pankaj Jain)

Dpr

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No