



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

**FAO-7414-2015 (O&M)
Reserved on: 07.01.2024
Pronounced on: 13.01.2025**

Maina Devi and Others

.....Appellants

VERSUS

Hari Ram and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL.

Present: Mr. J.P. Sharma, Advocate
for the appellants.

Ms. Manvi Verma, Advocate for
Mr. Rajneesh Malhotra, Advocate
for respondent No.3.

VIKRAM AGGARWAL, J.

1. The appellants-claimants who are the widow and three minor daughters of Ram Sharan who had expired on 07.07.2013 in a motor vehicular accident are aggrieved by the decision dated 11.05.2015 of the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as the 'Tribunal') vide which the claim petition preferred by the appellants-claimants under Section 166 of the Motor Vehicles Act, 1988 (for short 'the MV Act') seeking compensation on account of the death of Ram Sharan was dismissed.

2. The facts, in brief, as pleaded, are that on 07.07.2013, Ram Sharan and Hans Raj (brother-in-law of Ram Sharan) were going from village Bithloda, Rajasthan to village Mosnuta on a motorcycle. At about 9:00 PM, when the duo reached ahead of Dholi Pahari near Nangal Dargu, a truck came from the front side. It was being driven by its driver (respondent No.1) in a rash and negligent manner. It struck the motorcycle of Ram Sharan, as a result

**FAO-7414-2015 (O&M)**

of which Ram Sharan fell down and his head got crushed under the truck. Hans Raj, who was the pillion rider, fell on the unmetalled portion of the road. It was alleged that the driver of the truck stopped at a distance and at this moment, Hans Raj noted the number of the truck as RJ-32GA-6304 and also saw the driver. Respondent No.1 fled from the spot alongwith the truck. On the complaint of Hans Raj, FIR No.146 dated 08.07.2013 was registered under Sections 279 and 304A IPC at Police Station Nagnal Chaudhary, District Narnaul. It was averred that the accident had taken place on account of the rash and negligent driving of the truck (hereinafter referred to as the 'offending vehicle') by respondent No.1. It was claimed that Ram Sharan was 30 years old at the time of his death and was a driver earning Rs.20,000/- per month. Rs.30,00,000/- alongwith interest @ 18% per annum was claimed as compensation.

3. The respondents opposed the claim petition denying the factum of the accident. The insurance company took its usual defences as well.

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

“1. Whether the motor vehicle accident which took place on 07.07.2013, at about 9:00 P.M., in the area of near Dholi Pahari Nangal Dargu, caused on account of rash and negligent driving of vehicle i.e. truck bearing registration no.HR-32GA-6304 by respondent no.1, resulting into death of Ram Sharan s/o Bhagta Ram? OPP

2. If issue No.1 is proved, whether the petitioner is entitled to receive any amount of compensation. How much and from whom? OPP

3. Whether the respondent no.1 was driving the offending vehicle in violation of terms and conditions of the insurance policy? OPR



4. Relief .”

5. Parties led their respective evidence. The Tribunal came to the conclusion that the appellants-claimants had not been able to prove that the accident, as a result of which Ram Sharan had expired, had taken place with the offending vehicle and, therefore, dismissed the claim petition.

6. Learned counsel for the parties were heard.

7. It was submitted by learned counsel representing the appellants that the Tribunal gravely erred in dismissing the claim petition. It was submitted that the road on which Ram Sharan and Hans Raj were going was a secluded road on which there was practically no traffic and when the accident took place, there was no passer-by as a result of which Hans Raj had to go back to his village, which was 4 Kms from the spot, to inform his relatives. Learned counsel submitted that by the time Hans Raj came back, an ambulance had taken Ram Sharan to the Hospital where he was declared brought dead. Learned counsel submitted that the Tribunal had gravely erred in holding that the factum of the accident did not stand proved. Learned counsel referred to the oral and documentary evidence led on the record of the case and submitted that even an application for producing the final report moved under Section 173 Cr.P.C. and the charge sheet dated 14.10.2013 has been filed which is pending. Learned counsel submitted that the necessity of producing the said documents on record has arisen on account of the fact that one of the grounds for non-suiting the appellants-claimants was that the copies of the final report and the charge sheet had not been produced. Learned counsel submitted that since the FIR had duly been registered and after final report under Section 173 Cr.P.C. had been submitted and charges had also



been framed, it *prima facie* stood proved that the accident had taken place in the manner suggested in the claim petition. Learned counsel submitted that under the circumstances, the award is not sustainable and, therefore, deserves to be set aside and the claim petition deserves to be allowed.

8. *Per contra*, learned counsel representing the insurance company (respondent No.3) submitted that there is no illegality in the award. It was contended that it was most unnatural that the real brother-in-law of Ram Sharan namely Hans Raj left him grievously injured at the spot of the accident and went to inform his relatives and, thereafter, did not reach the hospital also and could inform the police only next day in the morning. It was submitted that under the circumstances, it clearly stands proved that the vehicle had been introduced later on only with a view to obtain compensation.

9. I have considered the submissions made by learned counsel for the parties.

10. Before examining the appeal on merits, the application for additional evidence is to be decided. The appellants intend to produce copies of the final report submitted under Section 173 Cr.P.C. and the charge sheet dated 14.10.2013 by way of additional evidence. The main ground for producing the same is that the appellants had been non-suited by the Tribunal for non-production of these documents. It is settled law that additional evidence cannot be permitted to be led to fill up the *lacunae* and documents which were in the knowledge and possession of a party should have been produced at the relevant stage. Be that as it may, the said documents are not found to be essential for the just decision of the case and, therefore, I do not find any reason to allow the said application. Accordingly, the application is dismissed.

**FAO-7414-2015 (O&M)**

11. Coming to the merits of the case, the accident, as per the claim petition, took place on 07.07.2013 at about 9:00 PM. The FIR i.e. FIR No. 146 dated 08.07.2013 was registered at Police Station, Nangal Chaudhary on the statement of Hans Raj. The Police proceedings show that on 07.07.2013, a telephone call had been received in Police Station Nangal Chaudhary from Police Post Nizampur that a motorcycle was lying on a road near village Nangal Dargu and a dead body was also lying alongside. It was reported that an ambulance was also there at the spot. On receipt of the information, a Police Official reached the spot from where he was told that the ambulance had already taken the dead body to Government Hospital, Narnaul. The Police Official then reached the Government Hospital, Narnaul where the Doctor on duty told them that the Post-Mortem would be carried out on the next day in the morning. The Police report also states that there was no relative or witness at the spot. On 08.07.2013 when the Police Officials reached Narnaul, Hans Raj made met them and gave his statement. Respondent No.3 produced the Police Information (ruqa) in their evidence as Ex.R-3 send by the Doctor on duty at Government Hospital, Narnaul as per which, an unknown dead body had been brought to Government Hospital, Narnaul at 12:10 AM on 08.07.2013. It is quite strange that after the accident having taken place at 9:00 PM, Hans Raj left his brother-in-law at the spot and went to inform his relatives. It has to be borne in mind that even in 2013, when the accident took place, practically everybody had a mobile phone and it is hard to believe that leaving a gravely injured person whose head had been crushed under a truck, Hans Raj went to his village to inform his relatives and returned only on the next morning at 10:00 AM. This makes the presence of Hans Raj at the spot extremely doubtful. From the circumstances, it appears that Hans Raj was not

**FAO-7414-2015 (O&M)**

present at the spot and only when the relatives of Ram Sharan came to know about his unfortunate demise in a motor vehicular accident, they introduced the offending vehicle with a view to claim compensation.

12. Even while appearing as PW-5, Hans Raj could not stand the test of cross-examination. He could not tell the date of the accident or that who had accompanied him from the village when he went to the spot of the accident again. He stated that he had reached the Hospital alongwith co-villagers at about 11/11:30 PM but the Police Information at 12:10 AM shows that the dead body of an unknown person had been brought to the Hospital and there is no reference of presence of any person. He could not tell in which room Ram Sharan had been admitted whereas, as per the Police Information, the dead body was kept in the mortuary. Hans Raj stated that he had not informed the Police about the accident and that he did not know as to who had informed the police. It is quite strange that after such a serious accident having taken place, no information was given by him to the Police if at all he was present at the spot. Even an ambulance was not called by him. Still further, in such a serious accident, Hans Raj did not get even a scratch on his body. He stated in his cross-examination that he had suffered some injuries but he was not medically examined. All this leads to the conclusion that Hans Raj was not present at the spot. The Tribunal duly considered all these aspects and then dismissed the claim petition.

13. It is true that a young man lost his life in a tragic accident and his widow and three minor daughters have been left behind to fend for themselves. No amount of monetary compensation would be sufficient to compensate their loss, though some reasonable compensation would definitely have come to their aid. However, at the same time, it has to be borne in mind



FAO-7414-2015 (O&M)

-7-

that the provision of compensation in the MV Act is a beneficial legislation aimed at compensating the rightful claims. It is equally true that such compensation should not be a windfall for those who are not entitled to such compensation. On a close scrutiny of the award passed by the Tribunal, the evidence led before it and the arguments addressed by learned counsel for the parties, this Court is of the considered opinion that there is no illegality in the award passed by the Tribunal warranting interference by this Court.

14. In view of the aforesaid, I do not find any merit in the instant appeal and the same is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 13.01.2025

Prince Chawla

Whether speaking/reasoned Yes/No

Whether reportable Yes/No