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

FAO-1964-2011 (O&M)

Date of Decision : 25.08.2025

JANTRI (DECEASED) THR LRS AND ANR Appellants

VERSUS

BHUVENESHWAR AND ORS Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Shilak Ram Hooda, Advocate for the appellants.

None for respondents No.1 and 2.

Mr. Amit Jaiswal, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellants aggrieved by the award dated 18.09.2010 passed by the Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as the 'Tribunal') vide which their claim petition was dismissed.

2. None has put in appearance on behalf of respondents No.1 and 2 i.e. the owner and the driver of the vehicle despite service by way of publication.

3. Learned counsel for the claimant-appellants would contend that the Tribunal has dismissed the claim petition solely on the ground that the Investigating Officer was not summoned and that the claimant-appellants have not been able to explain the delay of 10 days in lodging the FIR.

4. *Per contra*, learned counsel for the respondent No.3-Insurance Company would contend that the deceased himself was responsible for the accident as his car hit a parked truck.

5. Heard.

6. In the present case, a perusal of the award reveals that it is totally silent qua the evidence led by the parties. Infact, there is no discussion regarding the evidence as produced by the parties and the Tribunal has been swayed by the fact that there was a delay of 10 days in lodging the FIR. The Hon'ble Supreme Court in the case of **Ravi vs. Badrinarayan & Ors. [2011(2) RCR (Civil) 190]**, wherein there was a delay of 03 months in lodging the FIR, has held as under :

'21. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and

are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons.'

7. Further, it is trite that in a motor vehicular accident the case is to be decided by the Tribunal on the touch stone of probabilities. The Hon'ble Supreme Court in the case of **Sunita & Ors. Vs. Rajasthan State Road Transport Corporation & Anr. [(2020) 13 SCC 486]** has held that while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases. It was held as under :

“It is thus well settled that in motor accident claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, then the Tribunal's role would be to calculate the quantum of just compensation if the accident had taken place by reason of negligence of the driver of a motor vehicle and, while doing so, the Tribunal would not be strictly bound by the pleadings of the parties. Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of

probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases.”

Thus, non summoning of the Investigating Officer, in the opinion of this Court, would not be fatal to the case of the claimant-appellants.

8. In view of the above, the present appeal is allowed, and the impugned award is set aside. The matter is remanded back to the successor Presiding Officer of the Tribunal concerned for a decision of the claim petition afresh in accordance with law. The parties shall appear before the successor Presiding Officer concerned on **05.09.2025** at 10:00 am.

9. Pending applications, if any, also stand disposed off.

25.08.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No