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

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FAO-2503-2019 (O&M)

Date of decision: 17.03.2025

Iffco Tokio General Insurance Company Limited

... Appellant

Vs.

Rekha Devi and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. A.S. Sidhu, Advocate for the appellant.

Mr. Sukhdeep Singh, Advocate for respondent No.1.

None for respondent No.2, despite service.

Mr. Parth Aneja, Advocate for

Mr. Namit Khurana, Advocate for respondent No.3.

SUVIR SEHGAL J.

1. Aggrieved of award dated 20.12.2018, passed by the Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal'), insurance company has filed the instant appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'MV Act').

2. In brief, facts leading to the filing of the appeal are that on 19.09.2016, Jaswinder Singh, was driving a motorcycle on Badarpur-Kalsora road, when he was hit by a tractor trolley bearing No. HR-48B-8189, being driven carelessly on the wrong side by Sohan Lal. As a result of the impact, Jaswinder fell on the road and received grievous injuries. He was shifted to Kalpana Chawla Government Medical College Hospital, Karnal, where he was declared dead. FIR No. 345/2016 was



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registered under Sections 279, 337 and 304-A of IPC, at Police Station Indri. A petition was filed under Section 166 of the MV Act by the mother of the deceased, which has been partly accepted and she has been granted compensation of Rs.13,05,240/- along with interest @ 6% per annum. The owner and driver of the offending vehicle, as well as Insurance company have been jointly and severally held liable to pay the compensation.

3. Counsel for the appellant has argued that the FIR was registered by the father of the deceased after a delay of one day and against an unknown vehicle and unknown driver. He submits that an eye witness was introduced after almost one month of the accident and the Tribunal has erred in accepting the claim petition saddling the insurance company with liability. Counsel for the claimant/respondent No.1 has supported the impugned award.

4. I have heard counsel for the parties and considered their respective submissions besides examining the documents placed on the record.

5. The unfortunate incident was witnessed by Rinku, PW-2, who deposed that on 19.09.2016, he was returning from Village Garhi Birbal and was going towards his native village, when he saw that a tractor trolley bearing No. HR-48B-8189, which was being rashly driven, came from Kalsora side and collided with the motorcycle driven by the deceased. He has categorically asserted that the tractor trolley was being driven negligently by Sohan Lal, who sped away from the spot on the tractor. Deponent stopped his motorcycle and saw that Jaswinder had



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received multiple injuries. In his cross-examination, he stated that the offending tractor trolley was being driven on the wrong side of the road. He clarified that he did not accompany the injured to the hospital as he was taken in an ambulance. His statement was recorded at the Police Station on the next day. HC Baljit Singh, RW-1, the Investigating Officer produced the summoned record of the criminal case and deposed that during investigation he came to the conclusion that the fatal accident was caused by the tractor trolley driven by Sohan Lal, who was arrested on 14.12.2016. He prepared the final report and the accused is facing criminal trial. Despite extensive cross-examination, the testimony of both the witnesses could not be shaken.

6. In *Ravi Versus Badrinarayan and other (2011) 4 SCC 693*, Supreme Court has held that the delay in lodging the FIR cannot be a ground to doubt the claimant's case. It has been observed that knowing the Indian conditions, as they are, it cannot be expected that a common man will rush to the police station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than rush to the police station and in such situation even if there is a delay in the lodging of the FIR, the same deserves to be condoned. Supreme Court has further observed that the lodging of the FIR certainly proves the factum of the accident so that the victim or his heirs are able to lodge a case for compensation and the delay in itself cannot be a ground for rejecting the claim. Extensive examination of HC Baljit Singh RW-1, Investigating Officer, shows that he had prepared the challan



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after thoroughly investigating the allegation levelled in the FIR He recorded the statement of the informant, eye witness and other witnesses, arrested the accused, verified the registration record of the offending tractor as well as the licence of the accused before preparing the challan. All this goes to show that there was sufficient material before the Tribunal to form an opinion that the offending vehicle was involved in the accident. Testimony of the eye witness shows that the offending vehicle was being driven on the wrong side of the road and struck the motorcycle of the Jaswinder, resulting in his death.

7. This Court is, therefore, of the view that the finding recorded by the Tribunal under issue No.1 regarding the rash and negligent driving of the offending vehicle by Sohan Lal is based on the record and does not call for any interference.

8. At this stage, counsel for respondent No.1 has informed the Court that an appeal (FAO-2212-2019) filed by the claimant for enhancement of compensation has been dismissed by a co-ordinate Bench of this Court vide judgment dated 20.02.2023. In view thereof, the compensation awarded by the Tribunal does not warrant any interference.

9. Appeal being devoid of merits, is dismissed, with no order as to costs.

10. Pending application is disposed off.

17.03.2025

(SUVIR SEHGAL)

pooja saini

JUDGE

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable | Yes/No |