

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

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FAO-5694-2023(O&M)
Date of decision: 11.09.2025**Savita & Others****...Appellant(s)****Vs.****Vinay Pal & Another****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**Present:- Mr. Prashant Singh Chauhan, Advocate
for the appellants.*********NIDHI GUPTA, J.**

Present appeal has been filed by claimants against the dismissal of their Claim Petition No.892 dated 29.05.2018 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act") by Motor Accident Claims Tribunal, Rewari (hereinafter 'the learned Tribunal') vide Award dated 22.08.2023. The 4 claimants are the widow and 3 minor children of the deceased Subhash Kumar.

2. The case as pleaded by the appellants in their Claim Petition before the Tribunal as recorded in the impugned Award reads as follows:-

"2. The claimants have submitted that on 28.9.2017, the deceased Subhash Kumar was going to village Jarthal from village Sangwari on his motorcycle. When he had reached near



the Panchor Canal, tractor JOHN Deere with trolley bearing Engine No.PY3029D422507 Chassis No.IPY5036DPHA003252 was parked on the road without any reason. The deceased Subhash Kumar collided with the tractor trolley. After the accident, the deceased was taken to Trauma Center, Rewari from where he was referred to Matrika Hospital, Rewari and thereafter he referred to SDMH, Jaipur, where he declared dead during the treatment. The matter was reported to the police and FIR No.341 dated 9.10.2017, under Sections 283, 337 IPC, 304-A IPC was registered at Police Station Kasola against the respondent no.1 i.e. driver of the offending vehicle.”

3. Learned Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties concluded that the claimants had failed to prove the involvement and rash and negligent driving of the alleged offending tractor for causing the accident in question, which led to the death of Subhash Kumar on 17.10.2017.

4. Learned counsel for the appellants assails the impugned Award by submitting that the Ld. Tribunal while dismissing the claim petition of the claimants/appellants failed to take into consideration the evidence adduced by the claimants which stands un-rebutted. The Ld. Tribunal had failed to appreciate the fact that there is an admission of the accident by the Insurance Company. Pertinently, in the cross examination of PW-6 there is admission and there is no evidence in rebuttal. The Ld. Tribunal while passing the impugned award had failed to consider the fact that the ruqa Ex.P-61 by hospital. Thus, just because the statement of



complainant is at later stage, the victim cannot be made to suffer for his delay. Further, the Ld. Tribunal did not appreciate that at the time of accident the deceased was healthy and was Photographer and Agriculturist and was earning @ Rs.25,000/- per month. Therefore, Ld. Tribunal ought to have awarded the claim amount as claimed in the petition or above.

5. It is further submitted that the learned Tribunal failed to appreciate that the driver of the offending vehicle is facing trial; that the claimants have proved their case on the preponderance of probabilities; and that the driver has not even stepped into the witness box. It is accordingly prayed that the impugned Award be set aside.

6. No other argument is made on behalf of the appellants.

7. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellants.

8. First and foremost, no error can be found in the impugned Award as it is the own pleaded case of the appellants that it was the deceased Subhash Kumar who had collided with the tractor trolley from behind. To counter this, Id. counsel for the appellants has submitted that the accident had taken place as the offending tractor had braked suddenly. However, as per the Rules of the Road Regulations, 1989, the deceased was required to maintain safe distance from the vehicle in front, which is the offending tractor.



9. It is also noteworthy that although the accident had taken place on 28.09.2017 yet, FIR was registered only on 09.10.2017. There is no explanation for this delay of registration of FIR. Furthermore, FIR has been recorded on the statement of PW5 Rajesh, brother of the deceased who is not an eyewitness to the accident. There is no explanation as to why Ramotar PW6 who is stated to be an eyewitness, has not registered the FIR. Even his name is not mentioned in the list of witnesses in the challan. Even presence of alleged eyewitness PW6 Ramotar has not been proved on the spot by the claimants by referring to Call Detail Record. Thus, Ramotar is not a trustworthy eyewitness and appears to be a planted witness.

10. Even otherwise, even eyewitness PW6 Ramotar has testified that at the time of accident, the alleged offending tractor was parked, and it was new and that it bore no registration number. He had further deposed that he had seen the accident from a distance of about 10-15 feet. From the above evidence, it would appear that the accident had been caused due to the rash and negligent driving of the deceased himself as he had hit into the back of the stationary truck. Thus, the appellants have failed to discharge their burden of proving that the accident had been caused due to the rash and negligent driving of the offending vehicle by respondent No.1.

11. Furthermore, PW5 has categorically mentioned name of driver of the tractor as Hukam Saini. However, in his supplementary statement dated 28.10.2017, PW5 Rajesh has stated the name of driver of the truck as



respondent No.1 Vinay Pal. No reasons have been given as to why name of Hukam Saini as driver of truck was dropped and name of respondent No.1 Vinay Saini was introduced as driver of truck. Moreover, it is only in his supplementary statement that PW5 has mentioned the registration number of the offending vehicle. Even the Investigating Officer has not been examined by the appellants to establish the mode and manner of accident and to explain the above-said discrepancy as regards the driver of the offending truck.

12. Further, a complaint (Ex.P55) was filed on 05.05.2018 by claimant No.1/widow of the deceased against the Investigating Officer for including the names of alleged eyewitnesses namely Parmeshwar Dayal and Ramotar. It is odd that the said complaint (Ex.P55) was filed on 05.05.2018 i.e. about 6 months 27 days after the accident; and only 24 days before the filing of the present Claim Petition on 29.5.2018. It would therefore appear that the said complaint has been filed only to introduce the alleged eyewitnesses Ramotar and Parmeshwar Dayal, who had heretofore not been mentioned by the claimants. In fact, claimant No.1 as PW4 has admitted in her cross-examination that the complaint was sent by her family members; and she does not know who among her three elder brothers had sent the complaint. Further, PW5, brother of the deceased has admitted in his cross-examination that he had no knowledge about the complaint (Ex.P55).



13. There are further irreconcilable discrepancies on the record in the form that PW5 Rajesh, real brother of the deceased, had given his statement on 09.10.2017 (Ex.P58) to the Police where he has clearly mentioned that driver of the offending tractor had fled away after seeing the crowd from the spot and he came to know only later that the offending tractor belonged to Hukam Saini. However, subsequently, by way of supplementary statement dated 28.10.2017 (Ex.P60), PW5 has contradicted his earlier version by now stating that the offending tractor belonged to Vinay Pal/respondent No.1, who is nephew of Hukam Saini. Oddly, Hukam Saini had made statement to the Police that Vinay Pal had come to the village on 28.09.2017 in the offending tractor and had admitted the accident to him. It is only thereafter that notice (Ex.P66) dated 07.11.2017 was issued to Vinay Pal/respondent No.1. Further discrepancy which may be pointed out is that PW5 had stated that he had come on the spot after telephonic message from eyewitness PW6 Ramotar. There is no evidence available on record regarding the same. To the contrary, PW5 Rajesh has deposed in his Affidavit of Evidence dated 27.11.2018 that he had received the information about the accident but he has nowhere mentioned from whom he had received the said information. Although Ramotar had stated in his cross-examination that he had informed the Police about the accident on 100 number from his mobile numbers as mentioned in the Award. However, there is no evidence to this effect. It has further been stated by Ramotar that the Police and PW5



Rajesh, real brother of the deceased had come to the spot of accident within 10 minutes and that Police had not recorded his statement regarding the accident. In these circumstances, it is not clear as to why FIR was registered on 09.10.2017 after delay of almost 10 days and against an unknown vehicle. Learned Tribunal had therefore correctly inferred that claimants had no registration number of the vehicle in question, which was subsequently planted only in order to get the compensation; as no sufficient cause has been shown to explain as to why despite availability of registration number of the offending vehicle, the Police did not lodge the FIR immediately. No doubt, mere delay in registration of FIR would not in itself be sufficient ground for dismissal of the Claim Petition. However, keeping in view the above-said attendant circumstances and discrepancies of the case, I find no error in the impugned Award. Present appeal accordingly stands **dismissed**.

14. Pending application(s) if any also stand(s) disposed of.

11.09.2025

Sunena

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)

Judge