

5 MACT 1202/24

HARDEV KUMAR YADAV Vs. AMRESH KUMAR AND
ORS

16.03.2026

Present: Sh. Dilip Kumar, Ld. Counsel for petitioner.
Ms. Vandana Kahlon, Ld. Counsel for insurance
company.
None for other respondents.

Arguments heard on application u/O 7 Rule 11 CPC.
Reply filed by the petitioner perused.

The brief facts leading to the application and challenge to the maintainability of the present claim petition is concealment of a material fact regarding occurrence of the accident.

It has been submitted by Ld.counsel for insurance company that as per the FIR and subsequent investigation leading to filing of chargesheet, it was found that the alleged accident dated 12.06.2024 occurred due to hitting of motorcycle bearing no.BR-43AC-9721 by an unknown vehicle. It is thus pleaded that the present claim petition is not maintainable against the insurance company of the motorcycle.

On the other hand, while conceding that the FIR and chargesheet are against an unknown vehicle, petitioner claims negligence of the driver of the motorcycle on which victim was a pillion rider and hence pleads that the claim is maintainable.

Record perused.

It is seen that the petitioner has concealed in the claim petition, that the FIR no.193/24 dated 15.06.2024 registered at PS Uda Kishunganj u/s 279/304A IPC was filed

against an unknown vehicle or that the accident even involved an unknown vehicle. The FIR discloses that the victim Mohan Kumar (since deceased in the accident) and victim Avdesh Kumar (since deceased in the accident) were pillion riders on Apache motorcycle bearing no. BR-43AC-9721 which was being driven by its owner Amresh Kumar (since also deceased in the accident). It further discloses that while the three of them were triple riding the motorcycle, they were hit by an unknown vehicle near petrol pump chowk. The accident claimed life of all three riders of the motorcycle. The FIR was registered on the complaint of Uren Yadav (father of deceased respondent no.1) and Hardev Yadav (father of deceased victim Mohan Kumar). It is a matter of record that apart from the two victims Mohan Kumar and Avdesh Kumar, driver of the alleged motorcycle Amresh Kumar, also died in the accident. It is an undenied fact that the FIR which was registered on complaint of father of the driver as well as father of Mohan Kumar who is one of the claimants, three days after the accident. It is a matter of record that the FIR was registered against an unknown vehicle and consequently an untrace report was filed. Now without having pleaded in their own complaint to the police, regarding negligence of Amresh Kumar, petitioners have taken a fresh stand pleading negligence of Amresh Kumar and filed a claim petition against LRs of Amresh Kumar.

In the considered opinion of this Tribunal the fact that an untrace case has been registered and filed on the complaint of the claimants themselves, a contradictory plea as to negligence of one of the deceased victims, cannot be raised, only

in order to secure compensation from the insurance company. As such, the present claim petition is dismissed.

However, noting that the deceased victim died in a hit and run accident, offending vehicle remaining untrace, claimants would be entitled to compensation from the respective Legal Services Authority of the State where the accident took place, as per rules.

File be consigned to the record room.

(Charu Gupta)

Ld.PO, MACT-01(South-East)
Saket Court/New Delhi/16.03.2026