

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****212****FAO-3070-2008(O&M)****Date of decision: 15.01.2026****Smt. Jarnailo & Another****...Appellant(s)****Vs.****Sh. Ishwar Singh & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Raghav Bali, Advocate
 Mr. Sikandh Mehta, Advocate
 Mr. Ankit Aggarwal, Advocate
 for the appellants.

Mr. Sahil Abhi, Advocate
 for respondent No.3 (through VC).

*********NIDHI GUPTA, J.**

Present appeal has been filed by claimants No.2 and 3 laying challenge to the Award dated 11.09.2007 passed by the Motor Accident Claims Tribunal, Ambala (hereinafter 'the learned Tribunal') whereby claim petition MACT Case No.8 dated 23.01.2006 filed by the claimants under Section 166 of the Motor Vehicles Act (hereinafter "the Act"), has been dismissed; and Award of only Rs.50,000/- has been granted to be appellants under "No Fault Liability".

2. It was the pleaded case of the appellants before the learned Tribunal as recorded in Para 2 of the Award that:-



“2. In brief, on 6.11.2005 claimant Jaswinder Singh alongwith Rameshwar (now deceased) were proceeding from village Naggal to village Khansyon, District Patiala on moped No. PB-11-2394. The moped was being driven by Rameshwar. It was being driven at normal speed and on correct side. Truck No. HR-45/A-7945 was ahead of moped and was being driven rashly and negligently and at a high speed. Back lights of truck were not in order. The truck was being driven by respondent No. 1, owned by respondent No. 2 and insured with respondent No. 3. Respondent No. 1 suddenly turned his truck towards wrong side and stopped. Rameshwar (now deceased) though applied brakes but could not control and struck into the truck. As a result of impact, claimant Jaswinder Singh and Rameshwar both fell down and suffered injuries. Respondent No. 1 sped away after causing the accident. The accident was stated to have been witnessed by many persons, who were, passers by, which included one Om Parkash of village Naggal. Rameshwar was stated to have suffered fatal injuries while Jaswinder Singh suffered serious injuries. The accident was stated to have taken place due to rash and negligent driving of truck No. HR-45/A-7945 by respondent no. 1.”

3. The learned Tribunal upon appraisal of the pleadings as well as oral and documentary evidence led before it, had dismissed the Claim Petition on the finding that the claimants had failed to prove any negligence on part of respondent No.1 in causing the accident in question; and that the accident was caused due to involvement of Moped No.PB-11-2394 and truck No.HR-45/A-7945. Learned Tribunal held that the claimants had failed to



prove the negligence on part of respondent No.1; and therefore, granted Rs.50,000/- under Section 140 of the Act under the “No Fault Liability”.

4. It is inter alia submitted by learned counsel for the appellants that the Ld Tribunal fell in error while deciding issue No.1 in favour of the respondents whereas the appellants brought on record sufficient evidence to hold that the respondent No.1 was driving the truck in rash and negligent manner and caused the accident. But the Ld. Tribunal without considering the depth of the same held issue No.1 against the appellants whereas the Ld. Tribunal should have decided issue No.1 in favour of the appellants.

5. The Ld. Tribunal fell in error while dealing with the evidence of eyewitness Jaswinder Singh PW-2, who was the pillion rider with the deceased Rameshwar. This witness categorically stated that the truck driver was driving the truck in rash and negligent manner and because of his negligence accident took place. The testimony of the PW-2 was not shaken. Thus, the findings of the Ld. Tribunal on issue No. 1 is liable to be reversed.

6. It is further submitted that after filling the written statement the respondents No.1 and 2 were proceeded Ex.Parte. It is submitted that, therefore, the Ld. Tribunal could not have taken into account the evidence of the respondent No.1 which cannot be read in evidence. Moreover, the Ld. Tribunal failed to consider that the respondent No.1 admitted that the owner of the truck was with him on 6.11.2005 and he has not examined the owner, which was the best evidence to prove the fact that the truck was parked in



the right side and the respondent No. 1 is not guilty of the rash and negligent driving. The Ld. Tribunal further failed to consider that the respondent No. 1 is the interested person and without the evidence of the independent witness his testimony otherwise also can not be relied. As such the order dated 11.9.2007 passed by the Ld. Tribunal is liable to be set aside.

7. It is accordingly prayed that the impugned Award be set aside and the Claim Petition of the appellants be allowed.

8. Per contra, learned counsel for the respondent No.3 opposes the submissions advanced on behalf of the appellants and submit that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

9. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellants.

10. Perusal of record of the case shows that the appellants had examined eyewitness Jaswinder Singh as PW2, who had stated in his cross-examination that at the time of accident, the Moped was at the speed of 10 km per hour; whereas the alleged offending truck was driving at the speed of 90 or 100 km per hour. PW2 had further stated that the accident had taken place five minutes after the truck had overtaken them; and that there was a gap of half acre between the truck and the Moped. It is also admitted fact on record that the accident had been caused because the Moped on which



Jaswinder Singh and the deceased were riding, had struck into the backside of the truck. Needless to say, if there was indeed a distance of half acre between the truck and the Moped, clearly, the Moped was being driven at such great speed by the deceased Rameshwar and had struck into the truck with such force that it had resulted in the death of Rameshwar.

11. Furthermore, even if the story put forth by the claimants is to be accepted that the accident had occurred as the offending truck had suddenly applied brakes, even then the appellants cannot be held entitled to compensation. Reference is made to Rule 23 of the Rules and Road Regulations 1999, which reads as follows: –

“23. Distance from vehicles in front.- The driver of a motor vehicle moving behind another vehicle shall keep at a sufficient distance from the other vehicle to avoid collision if the vehicle in front should suddenly slow down or stop.”

12. Thus, Rule 23 categorically stipulates that safe distance be maintained from the vehicle in front. Clearly, the deceased was driving the moped at a fast speed to have struck into the offending vehicle with such impact to result in his death.

13. Learned Tribunal had also given credence to the story put forth by the respondent No.1, who had admitted in his cross-examination that the offending truck was parked on the side because of breakdown and that respondent No.1 had gone to fetch diesel from a nearby Fuel Station. Learned Tribunal had accordingly concluded from these facts, that it would appear



that the Moped had hit against the stationary truck. As such, clearly there was no negligence on part of respondent No.1. Merely because respondent No.1 has been challaned, would not be sufficient ground to hold that he was rash and negligent in driving the offending vehicle. Learned counsel for the appellants have been unable to dispel these findings.

14. In view of the above, no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed**.

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

15.01.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No