

(1993) 10 P&amp;H CK 0025

**High Court Of Punjab And Haryana At Chandigarh****Case No:** F.A.O. No. 389 of 1985

Lachhmi and Others

APPELLANT

Vs

Baljit Singh and Others

RESPONDENT

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**Date of Decision:** Oct. 7, 1993**Acts Referred:**

- Motor Vehicles Act, 1939 - Section 110A

**Citation:** (1994) 1 ACC 423 : (1994) 107 PLR 695**Hon'ble Judges:** Amarjeet Chaudhary, J**Bench:** Single Bench**Advocate:** P.L. Singla, for the Appellant; Nemo, for the Respondent**Final Decision:** Dismissed

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**Judgement**

Amarjeet Chaudhary, J.

Smt. Lachhmi and others had filed claim petition seeking compensation of Rs. 40,000/- on account of the death of Prithi, who is alleged to have died in the road accident on 31.3.1984. The claimants had sought compensation from the respondents on the plea that the deceased had died due to rash and negligent driving of truck No. PNC-4061.

2. Baljit Singh, respondent had denied the involvement of truck No. PNC 4061 in the accident. The issues before the Tribunal were:-

(1) Whether the petitioners are legal heirs of Pirthi deceased? OPP.

(2) Whether accident in question took place due to rash and negligent act of Baljit Singh, respondent No. 1 while he was driving truck No. PNC 4061? OPP.

(3) If issue No. 2 is proved, whether the petitioners are entitled to claim any compensation ? If so, how much and from which of the respondents? OPP.

(4) Relief.

The Tribunal had held that there was nothing on the file from which it could be inferred that it was Baljit Singh who had caused the death of Pirthi with his truck and had dismissed the claim petition.

3. Aggrieved against the judgment of the Motor Accident Claims Tribunal Jind, dated 21.2.1985, the claimants have filed this appeal for setting aside the said judgment of the Tribunal.

4. Counsel for the appellants contends that involvement of the offending vehicle has been duly proved. He contends that from the testimony of Jai Pal AW-4 it has been proved that the accident was caused due to rash and negligent driving of truck by Baljit. Counsel further contends that after the accident, Baljit had gone to Hari Singh AW-8 and tendered apology before relations of the deceased.

5. I have perused the entire evidence on the Trial Court's file.

6. In this case the First Information Report was lodged by Hari Singh (AW-8) in which he had stated that he was informed by Jai Pal (AW-4), his nephew, that Pirthi was lying in an injured condition on the road. Thereafter, Hari Singh along with some other persons went to the place of accident and brought Pirthi in injured condition. He succumbed to the injuries later on. While making statement in the Trial Court, Hari Singh nowhere stated that he lodged report with the police or that Jai Pal AW had informed him. It has not been mentioned in the FIR that Jai Pal had informed Hari Singh that Pirthi died as a result of rash and negligent driving of the offending truck by Baljit. Even name of Baljit is not mentioned in the FIR, Copy of which is Exhibit PB on the Trial Court's file.

7. Similarly, Jai Pal (AW-4) says that Pirthi was going ahead of him and truck of Baljit hit him and then crushed him. Then he states that he had narrated the incident to Suraj Bhan and other but Suraj Bhan and Hari Singh are silent on this aspect. In cross-examination, Jai Pal AW says that he was at a distance of one killa when the accident took place. It had grown dark at that time. It is not understandable that from a distance of one killa how he could see the accident, more so, in darkness.

8. Ram Kala (AW-6) stated that he alongwith Hari Singh (AW-8) had gone to the Police Station and informed them that accident had been caused by Baljit, but this fact does not find mention anywhere on the record. Suraj Bhan (AW-7) simply says that he had seen Pirthi lying on the wrong side of the road and he was informed about the accident by Sat Pal. This statement also runs contrary to the statement of Ram Kala (AW-6).

9. From the statements of the abovesaid witnesses, it is clear that nobody had witnessed the alleged occurrence and Baljit was involved in the case only on suspicion. In this view of the matter, the claimants have not been able to link Baljit with the alleged accident.

Consequently, the appeal is dismissed being devoid of any merit. No order as to costs.