

(2021) 02 RAJ CK 0062

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 2549 Of 2016

Kiran Singh Rajpurohit And Ors

APPELLANT

Vs

Suresh Rajpurohit And Ors

RESPONDENT

Date of Decision : 15-02-2021

Acts Referred:

Citation : (2021) 02 RAJ CK 0062

Hon'ble Judges : Vinit Kumar Mathur, J

Bench : Single Bench

Advocate : Vikram Sharma, Anil Kaushik

Final Decision : Allowed

Judgement

With consent of learned counsel for the parties, the matter is being heard and disposed of finally.

The present appeal has been preferred by the appellants-claimants against the judgment dated 16.08.2016 passed by Learned Motor Accident Claims

Tribunal, Bali, District Pali in MAC Case No. 43/2014 whereby, learned Tribunal after framing the issues, evaluating the evidence on record and

hearing learned counsel for the parties, rejected the claim petition preferred by the appellants-claimants on the ground of delay in lodging the FIR.

Learned counsel for the appellant submits that it is an admitted position that the accident occurred on 23.07.2008 in which Smt. Tulsi Kanwar, while

travelling on a motorcycle was seriously injured. She was taken to a private hospital at Falna from where she was referred to L.N. Memorial Hospital,

Jodhpur and ultimately on 26.07.2008, she succumbed to the injuries sustained. For this accident, an FIR was registered on 18.08.2008.

He further submits that the claim petition of the appellants has been rejected

only on the ground of delay in lodging the FIR. He submits that the claimants belong to lowest rung of society and are not aware of the niceties of law and, therefore, mere delay in lodging the FIR cannot be fatal to their claim petition preferred before the Tribunal. Learned counsel has relied upon the judgment of Hon'ble the Supreme Court in the case of Ravi vs. Badrinarayan and Ors. reported in AIR 2011 SC 1226, in support of his contention.

Per contra, learned counsel for the respondent- Insurance Company submits that since the factum of accident was not conclusively proved, therefore, the Tribunal was justified in rejecting the claim petition vide its judgment dated 16.08.2016 on the ground of delay in lodging the FIR. However, learned counsel is not in a position to controvert the fact of the judgment of Hon'ble the Supreme Court in the case of Ravi vs. Badrinarayan and Ors. reported in AIR 2011 SC 1226.

I have considered the submissions made at the Bar and gone through the judgment dated 16.08.2016 as well as other relevant record of the case.

As per the factual details mentioned in the judgment dated 16.08.2016, it is clear that deceased Tulsi Kanwar, while travelling on a motorcycle on 23.07.2008, met with an accident and was taken to Vyas Hospital, Falna and thereafter she was referred to L.N. Memorial Hospital at Jodhpur. The FIR of the said accident was registered on 18.08.2008. The claimants belong to a backward area of State of Rajasthan and are residents of Village Barwa, Tehsil Bali, District Pali, they were not aware of the niceties of law, more particularly, in the situation when one of the close family member had passed away therefore, delay in lodging the FIR is quite natural without understanding the consequences of the same. Thus, on the ground of delay in lodging the FIR, the claim petition is not liable to be dismissed.

The Hon'ble Supreme Court in the case of Ravi vs. Badrinarayan and Ors. (supra) held as under:-

20. It is well settled that delay in lodging FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first 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 to rush to the Police Station. Under such

circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the Police. Delay in lodging the FIR thus, cannot be

the ground to deny justice to the victim. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so; the

contents of the FIR should also be scrutinized more carefully. If court finds that there is no indication of fabrication or it has not been concocted or

engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground.

21. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR

certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for

rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not

be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of

reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are

composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much

more significance than delay in lodging thereof supported by cogent reasons.

22. In the case in hand, the Claims Tribunal as well as the High Court, committed grave error in not appreciating the mental agony through which

Suresh was passing, whose son was severely injured.

23. In the light of the aforesaid discussion, we are of the considered opinion that the MACT as well as High Court committed error in coming to the

conclusion that lodging the FIR belatedly would result in dismissal of the claim petition.

Thus, in view of the discussions made above and judgment of Hon'ble the Supreme Court, the present appeal preferred by the appellants-claimants is

allowed. The judgment passed by learned Tribunal dated 16.08.2016 is not sustainable and the same is, therefore, quashed and set aside. The matter is

remanded back to the Tribunal to adjudicate the same on merit and the issues framed therein, after giving a reasonable opportunity to the parties. The

parties shall appear before the Tribunal on 17.03.2021 and thereafter the dates

fixed. Record of the case be sent back forthwith.