



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

224

**FAO No.5399 of 2003 (O&M)
Decided on : 26.08.2026**

BHARAT SHAH AND OTHERS

...APPELLANTS

VERSUS

GURKAMAL SINGH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Ms. Ekta Thakur, Advocate with
Mr. Pawandeep Kaur, Advocate
for appellants.

Mr. Parminder Singh Kanwar,
Addl. Standing Counsel, U.T., Chandigarh
for respondents No.2 and 3.

PARMOD GOYAL, J. (ORAL)

Present appeal has been preferred by unsuccessful appellants-claimants [husband and children (03)] being aggrieved by impugned award dated 01.10.2003 passed by learned Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as '**Tribunal**'), whereby claim petition of claimants seeking compensation on account of untimely death of Mati Devi (hereinafter referred to as '**deceased**') in motor vehicular accident dated 15.10.2001 allegedly caused due to rash and negligent driving of respondent-driver while driving bus bearing registration No. CH-01G-5331 (hereinafter referred to as '**offending vehicle**'), was dismissed.

2. Learned Tribunal had decided issue No.2 i.e. as to whether deceased had died in motor vehicular accident which took place due to rash and negligent driving of respondent-driver while driving offending vehicle, against the appellants-claimants and in favor of respondents.

3. It was claim of appellants-claimants that deceased had boarded

the offending vehicle as she was to go towards village Palsora, U.T. Chandigarh. That when the offending vehicle reached on the main road of village Palsora, it stopped, passengers were alighting from the offending vehicle and when the deceased was about to get down, respondent-driver at once started the offending vehicle due to which deceased had fallen down and had suffered injuries on her head and forehead, resulting into her death.

4. FIR No.528 dated 15.10.2001 was duly lodged with Police Station Sector 39, Chandigarh on the statement of one Mukesh Kumar. Perusal of FIR goes to show that author of FIR, Mukesh Kumar had asserted that on 15.10.2001 he was coming back to his shop situated in Badheri then at around 11:45 a.m., a C.T.U. bus came from village Palsora and had stopped at the main road for alighting the passengers. That when passengers were getting down, the driver had started the bus resulting into fall of a lady who was in process of getting down from the bus. That the said lady had suffered injuries on her head as well as forehead, however the bus driver ran away along with the bus. Mukesh Kumar further asserted that he had noted the registration number of bus as CH-01-G-5331 its route number as 32A. He also asserted that thereafter, someone had called the police and upon arrival of police, the injured was sent to PGI, Chandigarh. The author of FIR further asserted that accident had taken place on account of rash and negligent driving of C.T.U. bus No.CH-01-G-5331 and he can identify the driver if produced before him.

5. Further perusal of FIR goes to show that in police proceedings it was noted that information was received on wireless that a lady has fallen from a local bus near Badheri bus stand and thereafter police was sent to the place of occurrence. Upon reaching at the place of occurrence, it was found

that injured lady had already been sent to hospital and Mukesh Kumar was found at the spot upon whose statement FIR was lodged.

6. Appellants-claimants, however, had not examined author of FIR to prove the occurrence and involvement of respondent-driver and offending bus. Appellants-claimants had rather relied upon evidence of Mohammad Isah who was examined as PW1 to prove the manner of accident as well as involvement of offending vehicle.

7. PW1, in his statement before the learned Tribunal, had asserted that on 15.10.2001 while he was present at bus stand, Badheri, he found that on main road some passengers were alighting from a bus and at that time one lady was also in the process of getting down from the exit door, however, driver of the bus, all of a sudden, put the bus in motion without caring for passengers, as a result of which the said lady had fallen and had suffered multiple injuries. PW1 also stated that accident had taken place on account of rash and negligent driving of offending vehicle and that he came to know about the name of driver as Gurkamal Singh subsequently. In his cross-examination, PW1 asserted that he remained at the place of occurrence for few hours. He also admitted that case was not registered at his instance. PW1, however, denied suggestion that he was not present at the time of occurrence and bus being driven by respondent Gurkamal Singh was not involved in the accident.

8. Respondent-driver has also stepped into the witness box as RW1 and claimed that his bus was falsely implicated in the accident. He claimed that on 15.10.2001, he was on duty on bus No.CH-01-G-5331. The bus was being driven by him from village Palsora to Mansa Devi and that he had left village Palsora at about 11:30 a.m. and had reached Mansa Devi at

about 12:40 p.m. RW1-respondent-driver also claimed that thereafter he had parked his bus at bus stand, Sector 17, Chandigarh. He also claimed that Surjit Singh, conductor, was on duty with him and that on 16.10.2001, he resumed his duties in the evening and on 17.10.2001 from newspaper, he came to know that accident had been shown to have occurred with the bus being driven by him. That he immediately, along with union members, met his Director on 17.10.2001 at 11:00 a.m. and submitted an application (Mark A) in writing. Thereafter, the officers from C.T.U. had written letter to S.S.P. regarding his false implication. Respondent-driver claimed that no accident had taken place with bus being driven by him. In his cross-examination, RW1 admitted that a case was registered against him.

9. To support his case, respondent-driver had also examined conductor Surjit Singh as RW2 who had duly supported the case set up by respondent-driver by claiming that bus was not involved in the accident and they came to know about involvement of bus only on 17.10.2001 when they had moved application against their false implication before their higher authorities. In cross-examination, RW2 also admitted that respondent-driver Gurkamal Singh is facing the trial and that no inquiry was conducted by Director, rather he had made reference to the S.S.P.

10. RW3, Chaman Lal, Junior Assistant from C.T.U., Chandigarh, had placed on record letter dated 13.11.2001 (Ex.R2), addressed to S.S.P., Chandigarh. The said letter was written by General Manager. RW3 admitted that no inquiry was ever conducted by Director and the case against driver was still pending.

11. Learned Tribunal, on considering abovenoted facts and evidence produced by respective parties, concluded that presence of PW-1 is

doubtful as he had not lodged the FIR and also on the ground that the author of FIR, Mukesh Kumar, was not examined by appellants-claimants. Learned Tribunal had also taken note of contradictions in the evidence of PW1 and also the evidence of RW1 to RW3 to conclude that appellants-claimants have failed to prove involvement of offending vehicle and respondent-driver in the accident dated 15.10.2001.

12. Learned counsel for appellants-claimants has argued that learned Tribunal had erred in appreciating the evidence of PW1 and has wrongly concluded that accident had taken place at village Palsora, whereas PW1 was standing at bus stop Badheri as to reject his evidence.

13. Learned counsel for appellants-claimants has made reference to paragraph No.10 and paragraph No.24 of claim petition as well as FIR (Ex.P2) and evidence of PW1 to show that the place of occurrence was near bus stop of Badheri on the main road leading from Palsora to Badheri. Learned counsel for appellants-claimants has also argued that from the evidence of RW1 and RW2, it is also made out that it was respondent-driver and offending vehicle which was operating at the place of occurrence at the time of accident. Reference is made to FIR (Ex.P2), wherein time of occurrence was stated to be 11:45 a.m. and evidence of RW1 wherein he had stated that he was on duty of bus No.CH-01-G-5331 on Palsora to Mansa Devi route and had left Palsora at about 11:30 a.m.

14. Learned counsel for respondents, on the other hand, has supported the conclusion drawn by learned Tribunal. He has argued that learned Tribunal has rightly held that evidence of PW1 cannot be taken into consideration as there is no material to justify his presence at the time of occurrence. He has also made reference to claim petition wherein in

paragraphs No.8 and 10, the place of occurrence was stated to be main road of village Palsora, U.T. Chandigarh, whereas as per PW1, he was standing at Badheri bus stop when the occurrence had taken place on main road near Badheri bus stop. Therefore, it has been argued that evidence of PW1 was rightly rejected by learned Tribunal in light of evidence of RW1 to RW3 showing that RW1 had duly protested against his false implication in FIR. Learned counsel for respondents also pointed out that the best evidence available to appellants-claimants i.e. testimony of Mukesh Kumar, author of FIR was not placed before the learned Tribunal.

15. In order to appreciate respective contentions made by learned counsels for parties, paragraphs No.8, 10 and 24 of the claim petition are reproduced hereunder:-

“8. Place, date and time of accident : The accident took place on 15.10.2001 at about 11.45 a.m. on the main road of village Palsora, U.T., Chandigarh

10. Was the deceased in respect of whom the compensation is claimed was travelling by the Motor Vehicle involved in accident and place of starting of journey and destination. : The deceased had boarded the bus and she was to go towards village Palsora, U.T., Chandigarh, when the bus reached on the main road of village Palsora and the passengers were alighting from the bus, as soon as deceased was about to alight from the bus, respondent No.1 at once started the Bus. Due to which, deceased who was alighting from the bus fell down on the road and suffered injuries upon her head and forehead which proved fatal for her.

*24. Cause of accident with brief description:
On 15.10.2001 deceased, Smt. Mati Devi, was travelling*

in the offending bus No.CH-01-G-5331. When the bus reached after crossing the area of village Palsora on the main road and stopped at the Bus-stop and passengers were alighting from the same, the deceased was also in the process of alighting and was in the exit door of the bus, respondent No.1 at once started the Bus without caring for the deceased in negligent and rash manner, as a result of which she fell down on the road and suffered grievous injuries upon her head and forehead which proved fatal for her and she died.”

16. On consideration of assertions made in claim petition and conjoint reading of paragraphs No.8, 10, and 24, it is clearly made out that appellants-claimants had not asserted that accident had occurred in village Palsora, rather their case was that accident had taken place on main road of village Palsora, U.T. Chandigarh, as the bus had stopped near the bus stop after crossing the area of village Palsora.

17. Learned Tribunal had taken judicial notice of fact that both village Palsora and Badheri are situated nearby and distance between them is 02 k.ms. It is further noticed by this Court by taking judicial notice of fact that village Palsora as well as Badheri are situated in same line and on the main road where the accident had taken place. If the detailed assertions made in paragraph No.24 of the claim petition are taken in consideration, it is clearly made out that it was after village crossing Palsora, offending vehicle had stopped at the bus stop and the next stop after crossing village Palsora is none but Badheri. Therefore, the evidence of PW1 cannot be held to be in contradiction of pleadings made by appellants-claimants, rather evidence of PW1 is clearly in line with assertions made by appellants-claimants.

18. Furthermore, perusal of FIR which was lodged in a prompt manner goes to show that occurrence had taken place at 11:45 a.m. on 15.10.2001. Information was received by police at 12:50 hours and FIR was

lodged at 13:05 hours i.e within less than 1 ½ hours of occurrence. The FIR goes to show that accident had taken place about 1 ½ k.ms. east of beat Badheri. The place of occurrence was stated to be near main market, village Badheri, near bus stop, U.T. Chandigarh. These facts so recorded in FIR recorded immediately after occurrence, go to show that occurrence had not taken place at Palsora as had been held by learned Tribunal, rather occurrence had taken place near bus stand Badheri as was claimed by PW1. The evidence of PW-1 in this regard is fully supported by assertions recorded in FIR (Ex. P2) which was lodged promptly within 1 ½ hours of occurrence. Therefore, the facts stated by PW1 finds due corroboration from FIR (Ex.P2) that place of occurrence was near bus stand of village Badheri. Hence, there was no contradiction in the statement of PW1.

19. Learned Tribunal had also rejected the evidence of PW1 as he had not joined the investigation, however, in present case, since the evidence of PW1 is in line with contents of FIR which was recorded immediately after the occurrence and it is respondent-driver who is facing trial for causing the accident on the basis of investigation made by police, therefore the evidence of PW1, though he may be a chance witness, is in line with the version which has come in public domain immediately after the occurrence. Hence, evidence of PW1 cannot be rejected merely because he had not joined investigation with the police. Lodging of FIR and joining of investigation are not pre-requisite in a claim case. In a claim case, even in absence of FIR, the rash and negligent driving on the part of offending vehicle can be shown. Admittedly, PW1 was not connected with appellants-claimants or deceased, he had no reasons to falsely state facts before the Court to help the appellants-claimants. PW1 was a total stranger and chance witness and

therefore his evidence cannot be rejected merely because he was not joined in investigation by police. Cross-examination of PW1 goes to show that nothing could be shown as to doubt his presence at the time of occurrence. In fact, cross-examination goes to show that the manner of accident as was stated by PW1 was not challenged at all by respondents.

20. Therefore, the evidence of PW1 is reliable, trustworthy and ought to have been relied upon by learned Tribunal. The evidence of RW1 to RW3, in the facts and circumstances of present case, is an attempt to avoid civil and criminal liability arising out of accident. Admittedly, respondent-driver who appeared as RW1 was present on the date and time of accident in offending vehicle at the place of accident, therefore his self-serving statement supported by RW2-conductor is of no help to the case of respondents.

21. It is the evidence of PW1 which is more reliable and consistent over the self-serving evidence of RW1 and RW2. Mere protest after two days will not allow respondent-driver to avoid his liability as despite his protest during investigation, police had found him to be liable for causing the accident and had charged him for which he faced trial. Police also after making investigation had not found the version given by respondent-driver to be correct version and has charged him for causing the accident.

22. In view of above discussion, the finding of learned Tribunal cannot be upheld on issue No.2. Therefore, same is set aside. It is held that deceased had died on account of injuries suffered by her in accident dated 15.10.2001 while getting down from offending vehicle being driven by respondent-driver in rash and negligent manner.

23. In present case, appellants-claimants had sought compensation

by claiming that deceased was working as a tailor with Khanna Tent House and was earning Rs.4,500/- per month. In order to prove her income, PW3- Raman Khanna, proprietor of Khanna Tent House, had duly appeared and claimed that deceased was working with him as a tailor and was being paid Rs.4,500/- per month. PW3 had duly placed on record salary certificate (Ex.P1) issued by him. PW3, however, had not produced any corroborative evidence to show that deceased was getting Rs.4,500/- per month, as no account books or income tax returns showing amount payable to deceased was tendered or shown in the court. Therefore, the evidence of PW3 will partially help the case of appellants-claimants. It is held that deceased was working as a tailor and was a skilled worker. Accordingly, income of deceased is taken as Rs.2,500/- per month being paid to a skilled worker in the year 2001. Since deceased was aged 23 years at the time of accident, addition of 40% needs to be made towards future prospects in view of judgment passed by Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, 2017 (16) SCC 680 and keeping in view of age of deceased to be 23 years, multiplier of '18' would be applicable as per judgment passed by Hon'ble Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, 2009(6) SCC 121. Similarly, deduction towards personal expenses has to be made on the basis of number of dependents which are four in present case i.e. husband and three children. Accordingly, deduction to the extent of 1/4th shall be applicable.

24. The loss of dependency, therefore, has to be determined by taking monthly **income** of deceased to be **Rs.2,500/-** by applying **future prospects** to the extent of 40%, **multiplier** of '18' and by making deduction

of 1/4th towards personal expenses.

25. Apart from compensation for loss of dependency, appellants-claimants shall also be entitled to **Rs.15,000/-** towards **funeral expenses** and **Rs.15,000/-** towards **loss of estate**. Appellant-claimant No.1 shall be entitled to compensation of **Rs.40,000/-** towards **loss of spousal consortium**. Appellants-claimants No.2 to 4 shall be entitled to compensation of **Rs.40,000/-** each towards **loss of parental consortium**. It is however made clear that in case Hon’ble Supreme Court answer the reference regarding quantum of compensation under conventional head made in **Hasina Yasmin & Ors. Vs. National Insurance Co. Ltd.**, 2025 SCC Online SC 2919 in favour of appellants-claimants, appellant-claimants shall be free to seek said amount by moving appropriate application in this regard.

26. Reworked compensation payable to appellants-claimants is as under:-

Income	Rs.2,500/- per month	Rs.2,500/- per month
Future Prospects	40% of Rs.2,500/- (2,500 + 1,000)	Rs.3,500/-
Deduction	1/4th (3,5000 -875)	Rs.2,625/-
Multiplier	18	18
Total loss of dependency	2,625X18X12	Rs.5,67,000
Loss of Estate	Rs.15,000/-	Rs.15,000/-
Funeral Expenses	Rs.15,000/-	Rs.15,000/-
Loss of spousal consortium to appellant-claimant No.1	Rs.40,000/-	Rs.40,000/-
Loss of parental consortium to appellants-claimants No.2 to 4	Rs.40,000 X 3	Rs.1,20,000/-
Total Compensation awarded in appeal		Rs.7,57,000/-

27. Appellants-claimants shall be entitled to enhanced

compensation (except for conventional heads i.e. loss of consortium, funeral expenses, loss of estate) along with 7.5% interest from the date of filing of claim petition till realization of entire amount. Interest on enhanced compensation under conventional heads shall be payable from August 2017 onwards till realization. Liability to pay compensation shall be on all the respondents jointly and severally.

- 28. Appeal is allowed in above terms.
- 29. Pending application(s), if any, stand disposed of.

26.08.2026
Sunil Chander

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No