

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

**FAO No.2650 of 2013(O&M)  
Date of Decision: January 07, 2016.**

Oriental Insurance Company Limited

**.....APPELLANT(s).**

**VERSUS**

Amrik Kaur and others

**.....RESPONDENT(s).**

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Vinod Chaudhri, Advocate  
for the appellant (s).

Mr. Tarurag Gaur, Advocate for  
Mr. Gopal Sharma, Advocate  
for respondent No.8.

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**SURINDER GUPTA, J.**

Heard.

2. This appeal has been filed against the award dated 02.03.2013 passed by Motor Accident Claims Tribunal, Ludhiana (later referred to as the Tribunal) whereby compensation of ₹8,37,388/- was allowed for the death of Sukhram Singh (later referred to as the deceased) in a motor accident with Zen Car bearing registration No.PB-49-7825 (later referred to as the offending vehicle).

3. Case of the claimants, in brief, is that on 20.04.2005, the deceased was going on his motorcycle Hero Honda bearing registration No.PB-10BB-380. When he reached near 'Jaggi Di Dairy' on Hambran Road

at 6.00 PM, the offending vehicle came from Ludhiana side, which was being driven by Rohit Jain (respondent No.7 in this appeal) in a rash and negligent manner. The offending vehicle hit the back side of the motorcycle, as a result of which deceased fell on the road and received multiple injuries. The incident was witnessed by Ravinder Singh son of Mohan Singh (AW1) and Balraj Singh (AW5). The driver of the offending vehicle fled away from the spot. The deceased was taken to D.M.C and Hospital, Ludhiana where he succumbed to the injuries on 21.04.2005. The matter was reported to the police vide FIR No.67 dated 21.04.2005. Claimant No.1 Amrik Kaur is wife, claimants No.2 and 3 are sons, claimant No.4 is daughter and claimants No.5 and 6 are parents of the deceased.

4. Respondent No.1 Rohit Jain (respondent No.7 in this appeal) contested the claim petition denying the accident and alleged his false implication in case bearing FIR No.67 dated 21.04.2005 registered at Police Station Haibowal, Ludhiana. He alleged that a representation was moved to the Senior Superintendent of Police, Ludhiana in the matter, which was investigated and the police presented cancellation report in that FIR.

5. Dharamjit Singh-owner of offending vehicle (respondent No.8 in this appeal) also denied the factum of accident and alleged that he had sold the offending vehicle to Rohit Jain.

6. Respondent No.3-insurance company (appellant) also contested the claim petition and supported the plea taken by respondent No.1.

7. As the issue raised in this appeal is only with regard to the accident and rashness and negligence of Rohit Jain (respondent No.7 in this

appeal), other facts of the claim petition are not being discussed in detail.

8. Learned counsel for the appellant has argued that the deceased was a Police Constable and in order to secure compensation, the police falsely involved the offending vehicle in this case. The plea of the claimants that the accident had taken place with offending vehicle was refuted by RW1 Sarabjinder Singh and RW3 Rajinder Kumar, who have stated that motorcycle of deceased met with an accident with some unidentified car and not with the offending vehicle. He further argued that on the representation made by Rohit Jain, the police thoroughly investigated the case and presented the cancellation report disbelieving the version in the FIR that the accident had taken place due to rash and negligent driving of driver of the offending vehicle.

9. In order to prove its case, the claimants have examined Ravinder Singh AW1 and Balraj Singh AW5, eyewitnesses, who have stated that motorcycle of deceased was hit from behind by the offending vehicle which was being driven by Rohit Jain, who fled away from spot after the accident.

10. The question which arises for consideration is as to whether the Tribunal has committed any error of law or fact while reaching the conclusion that the accident had taken place due to rash and negligent driving of Rohit Jain, driver of the offending vehicle. The Tribunal has relied on the testimonies of eyewitnesses AW1 Ravinder Singh and AW5 Balraj Singh.

11. Learned counsel for the appellant has assailed the testimony of both these witnesses on the ground that Ravinder Singh is the friend of the deceased while Balraj Singh is son of the deceased, as such, their testimonies

and RW3 Rajinder Kumar that accident had not taken place with the offending vehicle but with some unidentified car.

12. RW1 Sarabjinder Singh in his statement has stated that the accident took place on 20.04.2005 when the motorcycle of deceased was hit by an unidentified car. He was in his shop when the accident had taken place. However, in his cross-examination, he has stated that he started his business in the year 2008 and the accident is of 2005 when he was doing the business of property dealer. Except the bald statement that motorcycle was hit by some other car, this witness had no other role to play relating to the accident. He has nowhere stated that after seeing the accident near his shop he came out, tried to assist the injured or informed the police. Even otherwise, when a person is sitting in the shop and the traffic is going on the road in the front side, the number plates of the vehicles on the road are not usually visible or noticed.

13. Rajinder Kumar RW3 has stated that he was passing through Hambran Road near 'Jaggi Di Dairy' at the time of accident when the motorcycle of the deceased was hit by one unidentified car. However, he could not note the number or make of the said car. It is quite strange as to how this witness who could not notice the make or number of the car which hit the motorcycle of deceased, can say that car of Rohit Jain was not involved. The testimony of Ravinder Singh AW1 eyewitness of the occurrence has rightly been relied upon by the Tribunal to reach the conclusion that the accident had taken place due to rash and negligent driving of the offending vehicle by Rohit Jain-respondent. The accident is not disputed. The witnesses examined by the respondents say that they could

not identify the car or notice its number which hit the motorcycle of the deceased. Ravinder Singh AW1 categorically stated the number of the car which hit the motorcycle. He was subjected to detailed cross-examination but his testimony could not be shattered. Ravinder Singh AW1 has stated that he had usually seen Rohit Jain driving the offending vehicle, as such, his statement cannot be doubted. His name is also mentioned as eyewitness of the occurrence in the FIR. No doubt, the police has exonerated Rohit Jain and has also disbelieved the version of the complainant and eyewitness regarding involvement of offending vehicle in untrace report filed in the Court. However, it is not in evidence that Court has accepted that untrace report. The Investigating Officer on whose report, the untrace report was filed, was not examined to provide an opportunity to the claimants to question him for disbelieving the statements of complainant and eyewitness of the occurrence. Whatever be the fate of criminal case registered on the statement of Balraj Singh, the Tribunal has to reach the conclusion on the basis of preponderance of evidence produced before it. The testimony of RW1 and RW2 do not inspire confidence and have been rightly rejected by the Tribunal. It is not a case of collusion of claimant with respondent Rohit Jain, who had been hotly contesting the version of the claimants and there is nothing on record to suggest that the claimant or eyewitness PW1 had any reason to falsely implicate the offending vehicle and Rohit Jain in this case.

14. In view of my above discussion, I find no legal or factual infirmity in the conclusion arrived by the Tribunal that the accident had taken place due to rash and negligent driving of offending vehicle by

respondent-Rohit Jain.

15. No other point has been argued before me.

16. This appeal has no merits. Dismissed.

**January 07, 2016.**  
*Sachin M.*

**( SURINDER GUPTA )**  
**JUDGE**