

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

1. **FAO-4102-2019 (O&M)**  
**Date of decision : 22.02.2023**  
 Amrik Singh .....Appellant

Versus

Pooja Tandon & Ors. ....Respondents

2. **FAO-4585-2019 (O&M)**  
 Amrik Singh .....Appellant

Versus

Rama Rani & Ors. ....Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Deepak Aggarwal, Advocate  
 for the appellant (in both the cases).

**ALKA SARIN, J.**

The present order shall dispose off two appeals being **FAO No.4102 of 2019** and **FAO No.4585 of 2019** as common issue is involved. Both the appeals have been preferred by the driver of the offending vehicle against the awards dated 16.03.2019 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'Tribunal').

The brief facts relevant to the present *lis* are that on 13.09.2017, at about 1.00 p.m., the deceased Adarsh Kumar Tandon and his minor grandson Tarun Tandon were going to meet his daughter Reena, who was

living at Vikas Nagar, Mandi Gobindgarh from his house on his Activa bearing Registration No.PB-23G-8099. The grandson namely, Tarun Tandon, 5 years old, was sitting with him on the above said Activa. When he reached near Allahabad Bank and stopped his Activa to cross the road on his correct side, a truck bearing Registration No.PB-11Q-3935 came from the Bus Stand Gobindgarh being driven on the wrong side of the road and in a rash and negligent manner and without blowing any horn, struck the Activa from the front side. The minor child fell from the Activa and was crushed under the back tyres of the truck and died on the spot. Adarsh Kumar Tandon was taken to the hospital, however, he also succumbed to his injuries. Two claim petitions were filed – one on account of the death of Tarun Tandon and the other on account of the death of Adarsh Kumar Tandon. The claim petitions were contested by the appellant herein on the ground of maintainability, estoppel, *locus standi* and cause of action. On merits, the factum of the accident was denied. It was further averred that there was no fault on the part of the appellant herein and that he had falsely been implicated in the present case. The owner of the offending vehicle did not appear despite notice. No rejoinder was filed. The Tribunal, since there was no Insurance Company involved, held the appellant herein and the owner of the offending vehicle, jointly and severally liable. Hence, the present appeals have been preferred by the driver of the offending vehicle.

Learned counsel for the appellant has denied the factum of the accident. He would further contend that the claimants have falsely implicated the appellant herein and that even the criminal case was falsely lodged against the appellant herein.

Heard.

In the present case, on the basis of the oral testimony of CW1 and CW2 as well as the documentary evidence on the record, the Tribunal held that the factum of the accident stood proved as well as the fact that the driver was driving the truck in a rash and negligent manner. It is come in the evidence that the Activa scooter was being driven on the correct side of the road and it was the truck which came at a high speed and in a rash and negligent manner struck the Activa due to which two people, namely, Adarsh Kumar Tandon and Tarun Tandon both lost their lives. The presence of the appellant herein also stands proved by the photographs (Ex.P5 to Ex.P9). The argument of learned counsel that the appellant has falsely been implicated in the criminal case is also noticed only to be rejected inasmuch as there was no evidence led by the appellant that any protest was lodged by him qua his false implication.

It is trite that the cases under the Motor Vehicles Act, 1988 are to be decided on the touch-stone of preponderance of probabilities. Hon'ble Supreme Court in the case of **Anita Sharma & Ors. vs. The New India Assurance Co. Ltd. & Anr. [2021 (1) RCR (Civil) 200]** has held as under :

*“22. Equally, we are concerned over the failure of the High Court to be cognizant of the fact that strict principles of evidence and standards of proof like in a criminal trial are inapplicable in MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the*

*approach and role of Courts while examining evidence in accident claim cases ought not to be to find fault with non-examination of some best eye-witnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true. A somewhat similar situation arose in Dulcina Fernandes v. Joaquim Xavier Cruz (2013) 10 SCC 646, wherein this Court reiterated that :*

*“7. It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pickup van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probabilities and certainly not on the basis of proof beyond reasonable doubt. (Bimla Devi v. Himachal RTC [(2009) 13 SCC 530: (2009) 5 SCC (Civ) 189: (2010) 1 SCC (Cri) 1101]).”*

Learned counsel for the appellant has not been able to point out any evidence in support of his argument. Rather, the evidence led by the claimants clearly proves the factum of the accident as well as the fact that the appellant was the driver of the offending vehicle.

In view of the above, I do not find any merit in the present appeals which are accordingly dismissed. Pending applications, if any, also stand disposed off.

**22.02.2023**

Yogesh Sharma

**( ALKA SARIN )  
JUDGE**

NOTE : Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO