



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

FAO-1883-2002 (O&M)

Reserved on :-06.11.2025

Date of Pronouncement:-10.11.2025

Umesh Kumar

... Appellant

Versus

Prem @ Premi and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Maneet Kaushik, Advocate for
Mr. Sagar Aggarwal, Advocate
for the appellant.

None for respondents No.1 and 2.

Mr. V.K. Garg, Advocate
for respondent No.3.

VIRINDER AGGARWAL, J.

1. The appellant-claimant has preferred the present first appeal impugning the award passed by the learned Motor Accident Claims Tribunal, Karnal, whereby the claim petition filed by the appellant was dismissed. The appellant seeks to assail the said order on the grounds that the Tribunal erred both in law and on facts in rejecting the claim.

2. Appellant-claimant filed the claim petition asserting that on 04.11.1999, the claimant, Raj Kumar, along with his mother and other passengers, was traveling from Nilokheri to Karnal in a jeep bearing registration No. DL-1-CD-5630, which was being driven by respondent



No.1 at excessive speed. It is contended that at approximately 9:00 a.m., when the vehicle reached near the village of Jhanjhari, the driver lost control and, in a rash and negligent manner, took a sudden turn, causing the claimant and his mother to fall from the vehicle and sustain grievous injuries.

2.1. Subsequently, a criminal case was registered against respondent No.1 under FIR No. 621 dated 04.12.1998 at Police Station Sadar, Karnal, under Sections 279, 337, and 338 of the Indian Penal Code. Respondent No.2 is the owner of the offending vehicle, while respondent No.3 is its insurer.

2.2. The claimant was immediately taken to various medical institutions, including the Postgraduate Institute of Medical Education and Research (“PGIMER” for short), Chandigarh, for treatment, incurring an expenditure of approximately ₹70,000/-. It is further asserted that the injuries suffered have rendered the claimant permanently disabled. Considering that the claimant is merely five years of age, the appellant-claimant prays for the award of compensation to the tune of ₹5,00,000/-.

3. On being served with notice, respondent No.1 appeared and contested the claim petition, alleging that a fabricated criminal case had been registered against him in collusion with the appellant, and contended that the narrative put forth in the claim petition is false, frivolous, and devoid of any merit. It was further asserted that the answering respondent was en route to Karnal to attend a function, and that the claimant and his mother had taken a lift from Karnal to Nilokheri. Accordingly, respondent No.1 prayed for dismissal of the claim petition.

3.1. Respondent No.3, the insurance company, also contested the claim petition by filing a detailed written statement, asserting collusion



between the claimant and respondents No.1 and 2. It was categorically denied that the insured vehicle was ever involved in the alleged accident, and it was further contended that the vehicle had been falsely implicated in order to extract compensation from the insurance company. Additionally, it was pleaded that the insured vehicle was being used as a taxi in contravention of the terms and conditions of the insurance policy, and that the injuries purportedly suffered by the claimant could have been caused by some other incident.

4. Upon a meticulous examination of the pleadings and considering the rival contentions advanced by the parties, the learned Tribunal has framed the following issues for determination, so as to enable a focused, structured, and effective adjudication of the disputes arising between the parties:-

1. Whether the accident in question took place due to rash and negligent driving of offending jeep bearing registration No. DL-1CD-5630 by its driver and in that accident, claimant received injuries, if so its effect? OPP
2. If issue No.1 is proved, whether the claimant is entitled to receive compensation, if so, how much and from whom? OPP
3. Whether the respondent No.1 was not holding a valid driving licence at the time of accident if so its effect? OPR
4. Relief.

5. Opportunities were afforded to both parties to adduce evidence, and upon hearing the respective arguments, the learned Tribunal dismissed the claim petition, observing that *‘the claimant had failed to establish on record that the accident was caused by respondent No.1 while driving the*



jeep bearing registration No.DL-1CD-5630 in a rash and negligent manner’.

6. Aggrieved by the aforesaid Award, the appellant has preferred the present appeal. Notice was issued to the respondents, who entered appearance through their respective counsel. It is pertinent to note that Mr.Ashish Aggarwal, Advocate, initially appeared on behalf of respondents No.1 and 2 but subsequently chose not to represent them further. Consequently, respondent No.3-Insurance Company alone contested and argued the instant appeal. The record of the learned Tribunal has been duly requisitioned for perusal.

7. Learned counsel for the appellant-claimant contended that the findings recorded by the learned Tribunal are speculative and founded on conjectures rather than evidence. It was submitted that the learned Tribunal has overlooked the credible testimony of PW-2, the injured mother of the claimant, who herself sustained injuries in the accident. Further, the Tribunal disregarded the testimony of PW-1, the Ahlmad of the Court of Judicial Magistrate, who established that respondent No.1 is facing criminal proceedings in relation to the accident, and that charges have been formally framed against him.

7.1. It was argued that in view of the ongoing criminal trial against respondent No.1, it is reasonable to infer that the accident occurred due to his rash and negligent driving. The learned Tribunal erred in discarding the testimony of PW-2 on the ground that the FIR was lodged after a delay of one month and that her testimony did not specify the registration number of the offending vehicle or the name of the driver, neither of which were



mentioned in the FIR. Moreover, there is no evidence on record to suggest that PW-2 did not suffer any injury in the accident.

7.2. In light of the above, it was contended that the findings recorded by the learned Civil Judge on Issue No.1 are unsustainable and ought to be set aside, and the matter be remanded to the learned Tribunal for fresh adjudication, particularly for assessment of compensation payable to the claimant.

8. On the other hand, learned counsel appearing on behalf of the Insurance Company contended that there is no illegality or infirmity in the findings recorded by the learned Tribunal. It was submitted that the Tribunal has rightly concluded that the involvement of the vehicle driven by respondent No.1 in the alleged accident has not been established on record. Accordingly, it was urged that the appeal is devoid of merit and deserves to be dismissed, and that the award passed by the Tribunal be upheld.

9. I have carefully heard the learned counsel representing the respective parties and have meticulously perused the record in its entirety, giving due consideration to the pleadings, evidence, and submissions advanced on both sides.

10. It is a well-settled principle of law that parties are bound by their pleadings. In the present case, the claimant has averred in paragraph No.11 of the claim petition that the injured claimant was traveling in the offending jeep from Nilokheri to Karnal. This fact has been implicitly admitted by respondent No.1 in his written statement, wherein he specifically contended that the claimants had taken a lift from Nilokheri to Karnal while he was en route to attend a function on 04.11.1998. Respondent No.3, the Insurance



Company, has denied the contents of paragraph No.11 for want of knowledge.

10.1. A reading of the pleadings clearly demonstrates that the fact that the claimant and his mother were traveling in the jeep insured with respondent No.3 and driven by respondent No.1 is not in dispute. Consequently, the alleged omission of PW-2 to specify the complete registration number of the jeep or the name of respondent No.1 in her testimony, or at the time of lodging the FIR, is inconsequential.

10.2. It is on record that a criminal case was registered against respondent No.1, following which the police conducted a thorough investigation and submitted a challan, having found respondent No.1 guilty of rash and negligent driving, which had resulted in the accident. Based on the investigation report, as deposed by PW-1, the Court of Judicial Magistrate framed charges against respondent No.1 for causing injuries to the claimant due to his negligent driving.

10.3. Furthermore, respondent No.1, when examined as a witness, stated in his examination-in-chief that on 04.11.1998, his jeep was parked at home and he did not operate it anywhere. Such testimony is directly contradictory to his written statement, wherein he had averred that he was traveling to Karnal in the jeep and had given a lift to the claimant and his mother. In view of this contradiction, the testimony of respondent No.1 is wholly unreliable.

10.4. From a holistic appraisal of the evidence on record, it is evident that the claimant sustained injuries in a motor vehicle accident on account of the rash and negligent driving of the jeep bearing registration No. DL-1-CD-5630, insured with respondent No.3, on 04.11.1998. Accordingly, the



findings recorded by the learned Tribunal on Issue No.1 are unsustainable and are hereby set aside. The appeal filed by the appellant is allowed, and the matter is remanded to the Motor Accident Claims Tribunal, Karnal, for assessment of compensation and determination of liability of the respective respondents.

11. Consequent to the final adjudication of the main case, all pending miscellaneous applications, if any, arising from or connected to these proceedings are disposed of finally, and the parties are precluded from raising any further contentions thereon.

10.11.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No