

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

(228)

FAO no. 4771 of 2002(O&M)

Date of decision:17.11.2025

SOM PARKASH**... Appellant****Versus****MANOJ KUMAR AND OTHERS****... Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. Vikas Kumar, Advocate,
for the appellant.

Mr. Lalit Garg, Advocate,
for respondent No.3.

VIRINDER AGGARWAL,(ORAL)

1. The present appeal has been preferred by the appellant assailing the award dated 14.08.2002 passed by the learned Motor Accident Claims Tribunal, Sirsa, whereby the claim petition filed by the appellant for grant of compensation on account of injuries suffered in a motor vehicle accident came to be dismissed.

BACKGROUND FACTS

2. The brief facts of the case are that on 01.01.2000, shortly after midnight, the claimant Som Parkash was travelling with a few acquaintances in a Maruti car bearing registration No. (HR-01C-8619) from Karnal towards Pipli. According to the claimant, when the car reached near Pipli, it struck empty drums placed on the roadway by the Public Works Department for ongoing repair work. It was alleged that the accident occurred due to the negligent manner in which respondent No.1, Manoj Kumar, was driving the car. The



appellant claimed to have sustained a head injury resulting in loss of vision in the right eye. On these assertions, a claim petition under Section 166 of the Motor Vehicles Act was filed before the Motor Accident Claims Tribunal, Sirsa, seeking compensation of ₹15,00,000 for the injuries allegedly suffered in the accident.

3. After a comprehensive assessment of the evidence, the learned Tribunal concluded that the appellant had failed to establish the occurrence of the accident in the manner asserted, or that respondent No.1 was driving the vehicle rashly or negligently at the relevant time. The learned Tribunal noted that although a Daily Diary Report was recorded on 02.01.2000, the preliminary inquiry did not culminate in the registration of an FIR, nor was respondent No.1 ever challaned, thereby casting serious doubt on the claimant's version. Further it was observed that the claimant himself admitted in cross-examination that the offending vehicle was owned by his father (respondent No.2), which suggested a possible element of collusion. Moreover, the testimony of Kumari Pooja (PW-4), projected as an eyewitness, was found unreliable as she failed to recall basic details of the journey or the place of treatment and was unable to withstand cross-examination, rendering her presence at the alleged accident doubtful. The learned Tribunal additionally found that no medico-legal report, hospital admission record was produced to establish that the appellant sustained a head injury on the night of the alleged incident which resulted in loss of vision in the right eye. The learned Tribunal also rejected the disability certificate (Ex.P-1), observing that it had been prepared by Dr. R.K. Chaudhary (PW-2) alone, who had signed it in dual capacities as ophthalmologist and as Civil Surgeon despite the admitted fact that the Civil Surgeon was not even present on that day, which was wholly inconsistent with the statutory requirement that



disability assessments be made by a board of specialists. In the light of these material deficiencies and the absence of credible medical or ocular evidence, the learned Tribunal held that the claimant had not discharged the burden of proof under Section 166 of the Motor Vehicles Act and, accordingly, dismissed the claim petition.

CONTENTIONS

4. Learned counsel for the appellant submitted that the learned Tribunal fell in error in dismissing the claim petition despite the presence of sufficient material on record indicating that an accident had in fact taken place and that the appellant had sustained injuries therein. Learned counsel urged that the learned Tribunal unjustifiably discarded the medical evidence, including the disability certificate, and failed to correctly appreciate the appellant's consistent version, which also found support from the Daily Diary Report. Learned Counsel further argued that the occurrence of the accident stood established from the testimonies of the appellant (PW-1) and Kumari Pooja (PW-4). So, learned counsel for appellant contended that once the factum of injury was proved, the appellant could not have been denied compensation, and the impugned award thus calls for interference.

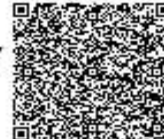
5. Per contra, learned counsel for the respondent No.3 supported the award of the learned Tribunal, submitting that the claimants had failed to discharge the basic burden of proof. It was further submitted that the impugned award is correct and no interference by this Court is warranted.

OBSERVATION AND FINDINGS

6. I have heard learned counsels for the parties and perused the available record, particularly the award passed by the learned Tribunal.



7. At the outset, this Court has carefully examined the oral and documentary evidence and finds significant deficiencies that seriously undermine the claimant's version of the alleged occurrence. Although a Daily Diary Report was recorded on 02.01.2000, the preliminary inquiry did not result in the registration of an FIR, nor was respondent No.1 challaned, thereby weakening the allegation of negligent driving. Further, this Court observed that the appellant himself admitted in cross-examination that the vehicle involved belonged to his father, supporting the learned Tribunal's observation of possible collusion. Moreover, the evidence of Kumari Pooja (PW-4), projected as an eyewitness, was found wholly unreliable as she was unable to recall who was driving the car, how long the journey to Karnal would take, how much time was spent there or the time of their return; she was also unaware of the hospital where the injured was taken after the mishap, leading the learned Tribunal to rightly doubt her presence at the alleged accident. Further, the claimant also failed to produce any medico-legal report, hospital admission record, or contemporaneous treatment document establishing that he sustained a head injury on the night in question, nor was any doctor who allegedly treated him immediately after the incident examined. The learned Tribunal further noted that the doctor at Geeta Surgical Hospital, Kurukshetra, did not support the claimant's assertion that he had been admitted there as a roadside accident case or had remained hospitalized for 12–15 days. Furthermore, the disability certificate (Ex.P-1) was likewise viewed with grave suspicion, having been prepared and signed by a single Doctor (Dr.R.K. Chaudhary (PW-2)) who anomalously countersigned it as Civil Surgeon on a day when the Civil Surgeon was admittedly absent, contrary to the requirement of certification by a duly constituted medical board.



8. In view of these deficiencies, the claimant's account cannot be considered reliable. It is settled law that a claimant must establish rash and negligent driving by the driver and identify the driver at least on the balance of probabilities. In the present case, the claimant has failed to discharge this burden. The learned Tribunal rightly held that the burden of proof rests on the claimant and was not discharged. Procedural omissions or the non-production of certain documents cannot compensate for the absence of proof of the essential facts of the accident. Accordingly, the learned Tribunal's conclusions are reasonable, well-founded, and legally sustainable.

9. It is well settled that in a claim under Section 166 of the Motor Vehicles Act, the burden lies upon the claimants to establish by cogent evidence the factum of accident, rash and negligent driving of the offending vehicle, and their locus standi as legal representatives of the deceased. In **Oriental Insurance Co. Ltd. v. Meena Variyal & Ors. (2007) 5 SCC 428** and **Surender Kumar Arora v. Dr. Manoj Bisla, 2012 (4) SCC 552**, it was held that the claimant must establish, by cogent evidence, the factum of accident, negligence, and involvement of the vehicle. Hence, In the absence of proof of these essential elements, the claim cannot be entertained. The learned Tribunal's findings are thus based on a sound appreciation of evidence and settled legal principles.

10. Accordingly, the appeal is found to be devoid of merit and is, accordingly, **dismissed.**

(VIRINDER AGGARWAL)
JUDGE

17.11.2025

Saurav Pathania

(i) *Whether speaking/reasoned* : Yes/No
(ii) *Whether reportable* : Yes/No