



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

(223)

FAO no. 2597 of 2002(O&M)**Reserved On: 29.10.2025****Pronounced On: 06.11.2025****Premo Devi And Others****... Appellants****Versus****Mohinder Singh (Since Deceased) Through His LRS ... Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. Ashit Malik, Senior Advocate with
Mr. Maneet Kaushik, Advocate
for appellants.

Mr. Ashish Gupta, Advocate
for respondent No.2.

Mr. Sanjiv Pabbi, Advocate
for Respondent No.3.

VIRINDER AGGARWAL, J.

1. The present appeal has been preferred by the claimants-appellants assailing the award dated 20.12.2001 passed by the learned Motor Accident Claims Tribunal, Karnal, whereby the claim petition filed by the appellants for grant of compensation on account of death of Sumer Chand suffered in a motor vehicle accident came to be dismissed.

BACKGROUND FACTS

2. The brief facts of the case are that the accident took place on the intervening night of 13/14.06.1999 near Sachdeva Rice Mill within the limits of village Shamgarh, District Panipat, when Sumer Chand was returning home on his bicycle from village Jainpur after visiting his



grandmother. A truck bearing registration No. HRP-9965 which was driven by respondent No.1 Mohinder Singh, came from behind in a rash and negligent manner and hit the bicycle causing multiple grievous injuries to Sumer Chand who died at the spot. The claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of the death of Sumer Chand in a road accident.

3. Upon appreciation of the evidence, the learned Tribunal noted that the claimants examined Ramesh Kumar (PW3) and Balwant Singh (PW4) as alleged eye-witnesses to the accident. Both deposed that on the intervening night of 13/14.06.1999, while passing near village Shamgarh, they saw a truck coming from behind at high speed and in a rash and negligent manner, which hit the bicycle of the deceased, causing his death at the spot. The learned Tribunal, however, found material contradictions in their statements, observing that their names were also not mentioned in the FIR. Further, the learned Tribunal observed that they did not report the incident to the police immediately and their statements were recorded after an unexplained delay casting doubt on their presence at the scene. The learned Tribunal further observed that the FIR was initially lodged against an unknown vehicle and that the registration number of the truck was introduced later.

4. Further, the learned Tribunal based on the police report under Section 173 Cr.P.C. and other documents held that the identity of the vehicle and its driver remained doubtful. The learned Tribunal concluded that the claimants failed to produce credible evidence to prove that the accident was caused by truck No. HRP-9965 driven by respondent No.1. The learned Tribunal also found indications of collusion between the claimants and the driver and owner of the vehicle to fasten liability upon the Insurance Company.



Accordingly, the learned Tribunal held that the claimants failed to establish rash and negligent driving or the involvement of the offending truck in the accident. Consequently, the claim petition was dismissed holding that the claimants were not entitled to any compensation. However, the learned Tribunal, in order to obviate any possible remand of the case by this Court in future, proceeded to assess the compensation on the basis of the structured formula and quantified the same at ₹3,17,000/-, making respondents No.1 to 3 jointly and severally liable to pay the said amount to the claimants.

CONTENTIONS

5. Learned counsel for the appellants argued that the learned Tribunal failed to properly appreciate the evidence and erred in holding that the accident was not proved. It was contended that the testimony of Ramesh Kumar (PW3) and Balwant Singh (PW4) clearly established that the accident occurred due to the rash and negligent driving of truck No. HRP-9965 by respondent No.1. Learned counsel for appellants further urged that the learned Tribunal wrongly treated the claim as collusive and ignored material evidence such as the FIR, post-mortem report and site plan which supported the claimants' version. The mere fact that the FIR was initially against an unknown vehicle did not discredit the case once the truck was identified during investigation. Thus, the learned counsel for appellants prayed for setting aside the impugned award and for grant of just and adequate compensation under Section 166 of the Act.

6. Per contra, learned counsel for respondent No.2 and respondent No.3 (insurer of truck) supported the award of the learned Tribunal, submitting that the testimonies of Ramesh Kumar (PW-3) and Balwant Singh (PW-4)



could not be relied upon as they had failed to identify the deceased at the spot. Further, it was contended that the witnesses neither reported the matter to the police nor attempted to apprehend the driver of the offending vehicle. It was further argued that the alleged disclosure made to the Deputy-Sarpanch of the village was not corroborated as he was not examined as a witness. Based on these circumstances, the learned Tribunal had rightly disbelieved their version and passed the award after a proper and thorough appreciation of the evidence on record and therefore, did not warrant any interference by this Court.

OBSERVATION AND FINDINGS

7. I have heard learned counsel for the parties and carefully perused the record, particularly the award passed by the learned Tribunal. Upon consideration, this Court finds that the impugned award suffers from misappreciation of evidence and an incorrect application of the settled legal principles.

8. It stands established from the record, including the depositions of PW-3 Ramesh Kumar and PW-4 Balwant Singh, that on the intervening night of 13/14.06.1999, while proceeding near village Shamgarh, they witnessed a truck bearing registration No. HRP-9965 coming from behind at a high speed in a rash and negligent manner by respondent No.1, Mohinder Singh, which struck a cyclist ahead of them. The cyclist, later identified as Sumer Chand, sustained multiple grievous injuries and died at the spot. The testimony of both these witnesses is consistent, natural, and in conformity with the documentary evidence including the FIR, post-mortem report, and site plan. Both eye-witnesses, Ramesh Kumar (PW-3) and Balwant Singh

(PW-4), have given a consistent account of the manner in which the accident



occurred. Ramesh Kumar (PW-3) deposed that the truck, instead of keeping to its correct side, suddenly swerved towards the wrong side and violently struck a cyclist ahead of them, causing the Deceased (cyclist) to fall on the road and sustain serious injuries and he died at the spot. He further stated that after hitting the deceased, the driver dragged the cycle to some distance along with the truck. They followed the truck and enquired about the name of driver of truck. However the cleaner of the truck took away the cycle from mudguard and threw towards the dead body, and alongwith the truck ran away from the spot. Further, Balwant Singh (PW-4) has corroborated Ramesh Kumar (PW-3) by stating that the truck HRP-9965 came from behind at a fast speed, driven in a rash and negligent manner, and hit the Deceased (cyclist) from the rear. He also stated that the injured person died on the spot and that both witnesses thereafter went to their village.

9. The learned Tribunal discarded their evidence on the grounds that the identity of the deceased was not immediately established by the witnesses, and the names of witnesses were not mentioned in the FIR and they did not report the matter to the police or apprehend the accused. Further, the Deputy-Sarpanch (Satish Kumar) to whom witnesses disclosed the incident was not examined. These findings of the learned tribunal are unsustainable in law. Minor discrepancies or procedural omissions cannot override credible ocular testimony that is otherwise consistent and corroborated by objective material on record. The foundational facts of the accident, the involvement of the offending truck, and the resultant death of the deceased stand duly proved.

10. The legal position is well settled that in motor accident claims, strict proof of negligence as required in criminal cases is not necessary. Once the



occurrence of the accident and involvement of the offending vehicle are established on a balance of probabilities, the learned Tribunal or Court must proceed to assess just compensation. The Hon'ble Supreme Court in ***Sunita & Ors. v. Rajasthan State Road Transport Corporation & Ors. (supra)*** emphasized that such claims are to be adjudicated on the basis of the preponderance of probabilities and not on the strict standard of proof beyond reasonable doubt as applied in criminal proceedings. Reference in this connection may be made to the observations of the Court in the said case, wherein it was held as under:

"Para 25. It is thus well settled that in motor accident claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, then the Tribunal's role would be to calculate the quantum of just compensation if the accident had taken place by reason of negligence of the driver of a motor vehicle and, while doing so, the Tribunal would not be strictly bound by the pleadings of the parties. Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases."(emphasis added)

11. In the present case, as regards the inability of the witnesses to identify the deceased at the spot cannot be treated as a ground to disbelieve their version. Both witnesses have clearly described the occurrence and the manner in which the truck, driven rashly and negligently, hit a cyclist on the GT Road. Their explanation that they could not identify the deceased due to



the darkness of night and the severe facial disfigurement is natural and fully acceptable. Thus, the testimony of the witnesses, who saw the accident and first noticed the dead body, which was later identified by the police investigation as that of Sumer Chand, is sufficient to establish the occurrence. Their inability to identify the deceased does not cast any doubt on the *factum of the accident*, which they clearly witnessed. Their presence at the scene, the manner in which the accident unfolded, the truck number, and the conduct of the driver in fleeing the spot have all been consistently narrated. These were the only witnesses who actually saw the offending truck hitting the cyclist, who was subsequently identified as Sumer Chand by the police. Further, the sequence of depositions of witnesses and the chain of events together abundantly prove on the basis of the preponderance of probabilities that the accident occurred due to rash and negligent driving of the offending truck HRP-9965, resulting in the death of the deceased at the spot.

12. As to the other objections, namely that the witnesses did not report the matter to the police or apprehend the driver, these too are wholly untenable. With regard to the non-reporting of the FIR by witnesses, it is evident from the record that the witnesses had duly informed the Deputy Sarpanch of the village immediately after the occurrence. In rural settings, it is a common and natural practice for ordinary villagers to first approach the Sarpanch or local authority upon witnessing an incident, rather than directly proceeding to the police station. This conduct cannot, therefore, be construed as negligence or suppression. The learned Tribunal's approach in discrediting the witnesses merely on the ground of non-reporting to the police overlooks this ground reality and does not carry much weight when



assessed against the substantial and consistent ocular evidence on record. Further, when an accident occurs in the dead of night, it is unreasonable to assume that lay witnesses would attempt to apprehend the driver of a heavy vehicle who fled the scene. The learned Tribunal's inference in this regard reflects an over-expectation from ordinary witnesses and is unsustainable. It is neither a legal nor a practical requirement that every eye-witness must immediately report the matter or apprehend the offender. Human conduct and response in sudden and in distressing situations differs from person to person; while some may have the courage to confront the wrongdoer, others, out of fear or shock, may remain passive or stay away. The law does not mandate that all persons act with uniform courage or composure. What matters is whether their account is credible and consistent with the surrounding circumstances, which the testimonies of PW-3 and PW-4 amply demonstrate. Thus, merely because these eye-witnesses did not go to the police station on the same night, or that the FIR was not registered at their instance, does not justify the inference that the accident did not take place or that the involvement of the offending truck is doubtful. The presence of the deceased's body at the site of occurrence, coupled with the consistent ocular version of the witnesses, leaves no manner of doubt that the accident occurred in the manner alleged and that the offending truck HRP-9965 was indeed responsible for causing the fatal injuries.

13. Similarly, the contention that the Ex-Sarpanch, to whom the witnesses disclosed the incident, was not examined, is also devoid of substance. Once the ocular testimony of PW-3 and PW-4 inspires confidence and stands corroborated by documentary and medical evidence, non-examination of an additional witness cannot be held fatal. The standard of



proof in motor accident claim cases remains that of **preponderance of probability**, not proof beyond reasonable doubt as required in criminal trials. Hence, once the consistent and trustworthy account of the occurrence is supported by contemporaneous records such as the FIR, site plan, and post-mortem report, the absence of the Ex-Sarpanch as a witness does not dilute the evidentiary worth of the claimants' case and negligence on the part of offending vehicle stands proved on the basis of the **preponderance of probabilities**. Accordingly, all these findings by the learned tribunals and objections raised by the respondents, are rejected as being without factual or legal foundation.

14. At last, the learned Tribunal, while dismissing the claim petition, also observed that respondent No.1 (the driver) had been shown as a driver in two other similar accident cases involving unidentified vehicles, and on that basis, inferred the possibility of collusion between the claimants and the respondents. This Court does not find that observation to be entirely false, for it appears from the record that respondent No.1 was indeed named in two other accident cases of a similar nature. However, that circumstance by itself cannot be taken as conclusive proof of collusion or fabrication in the present case. Each claim petition must be adjudicated on its own facts and evidence. The independent testimonies of PW-3 and PW-4, the FIR, and the post-mortem report clearly establish that the accident in question was caused by truck No. HRP-9965 driven rashly and negligently by respondent No.1. Hence, while the Tribunal's observation as to the driver's previous involvement may be factually correct, its inference of collusion drawn therefrom is legally unsustainable and not supported by the material on record.



15. In view of the above discussion and settled principles, this Court is of the considered view that the foundational facts stand clearly established that the consistent depositions of Ramesh Kumar (PW-3) and Balwant Singh (PW-4) fully narrate the manner in which truck No. HRP-9965, driven rashly and negligently by respondent No.1, struck the deceased while he was proceeding on his bicycle. Further, the FIR, police finding respondent no. 1 as responsible of causing death by negligence and filing final report against him, the post-occurrence conduct of the witnesses and other surrounding circumstances unmistakably point to the occurrence of the accident and the involvement of the offending vehicle. Further adverse inference is to be drawn against the respondents as respondent no.1 who was best witness to rebut the testimonies of PW3 and PW4 has not stepped in witness box. Therefore, once these basic facts were demonstrated, the learned Tribunal was, in terms of the law laid down in ***Sunita & Ors. (supra)***, required to proceed to compute just compensation rather than discard the claim on speculative or hyper-technical grounds. In view of this material, coupled with the unimpeached witness testimonies, there remains no doubt that the accident occurred due to the rash and negligent driving of truck No. HRP-9965 by respondent No.1. Therefore, the finding of the learned Tribunal that the claim was collusive or fabricated is wholly unsustainable and contrary to the evidence on record, as there is nothing to suggest any collusive conduct between the parties as there is no relationship of witnesses with the deceased or claimants. These names came to be known to the claimants later on, Due to that reason their names are not there in the FIR as it is not encyclopedia of the events.



15. As far as the quantum of compensation is concerned, the decision passed by the learned Tribunal does not fully reflect the settled principles of law and thus warrants reassessment by this Court. It is admitted that the deceased was **45 years** of age at the time of death, as established from the evidence placed on record i.e is the Post-Mortem Report. Further, the claimant-wife of deceased Premo Devi (PW2) and Ajmer Singh (PW1), neighbour of deceased, had asserted that the deceased was owner of Halwai Shop engaged in catering work in marriages etc. having monthly income of ₹8000-10000/-. However, in the absence of any documentary evidence regarding income, the notional monthly income of the deceased is assessed at ₹3,000/- (annual income ₹36,000/-), keeping in view the prevailing wages for skilled labour during the year 1999. Further, in line with **National Insurance Company Limited v. Pranay Sethi, 2017 (16) SCC 680**, a 25% addition is to be made towards future prospects in the case of persons in self employed and between 40-50 years of age. The deduction of 1/4th towards personal expenses is to apply while considering four dependents. As per the table in **Sarla Verma v. Delhi Transport Corporation, 2009 (6) SCC 121**, the multiplier of **14** would apply as appropriate for age 45. Lastly, in line with **Pranay Sethi (supra)**, and the **Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram, 2019(18) SCC 130**, all claimants are also awarded compensation under the conventional heads. The reassessment of the compensation is as following:

REASSESSED COMPUTATION

Particulars	Reassessed Award (₹)
Notional Monthly Income	3,000 /-



Annual Income	36,000/-
Income with Future Prospects (25%)	45,000/-
Deduction 1/4th For Personal Expenses (4 Dependents)	11,250/-
Annual Contribution To Family	33,750/-
Multiplier (age 45 yrs)	14
Loss Of Dependency	4,72,500/- (33,750 × 14)
Spousal Consortium	40,000/-
Parental Consortium	1,20,000/- (40000×3)
Loss Of Estate	15,000/-
Funeral Expenses	15,000/-
Total	₹ 6,62,500/-

13. Accordingly, the present appeal is **allowed**. The impugned award is modified to the above extent. The claimants shall be entitled to **₹6,62,500** along with interest at rate of 7% per annum from the date of filing of the claim petition till realisation. The liability to pay the awarded amount, as well as apportionment, shall be as determined by the learned Tribunal.

14. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

(VIRINDER AGGARWAL)
JUDGE

06.11.2025
Saurav Pathania

- (i)

Whether speaking/reasoned

:

Yes/No
- (ii)

Whether reportable

:

Yes/No