

**FAO-1366-2025 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****(264)****FAO-1366-2025 (O&M)
Date of decision:- 19.05.2025****Uuiversal Somp General Insurance Company Ltd.****... Appellant****Versus****Karamvir and others****... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL****Present:- Mr. Punit Jain, Advocate
for the appellant.************SUVIR SEHGAL, J. (ORAL)**

1. Aggrieved by award dated 30.04.2024 passed by the Motor Accident Claims Tribunal, Panchkula (for short “the Tribunal”), appellant-insurance company has approached this Court by filing the instant appeal under the provisions of the Motor Vehicles Act, 1988 (for short “the M.V. Act”).
2. Facts, in brief, leading to the filing of the appeal are that on 15.02.2020, when Karamvir, respondent No.1/claimant, was going to his office on his motorcycle, a car bearing No. HR-04-B-1925, rashly driven by Sandeep Kumar, struck the motorcycle. Karamvir fell on the road and sustained multiple injuries. He was taken to CHC, Raipur Rani and then shifted to Paras Hospital, Sector 22, Panchkula, where he remained admitted from 15.02.2020 to 22.02.2020. FIR bearing No.21, Ex.P-3, dated 22.02.2020 was registered under Sections 279 and 337, IPC on the statement of the complainant. A petition has been preferred by respondent No.1 under Section 166 of M.V. Act

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claiming compensation on account of injuries sustained by him and medical expenses etc., which has been partly accepted vide the impugned award. Claimant has been awarded an amount of Rs.1,58,000/- along with 6% interest from the date of filing of the petition. The owner as well as the driver of the offending vehicle and insurance company-appellant have been jointly and severally held liable to make the payment of compensation.

3. Besides questioning the quantum of compensation awarded by the Tribunal, Mr. Puneet Jain, counsel for the appellant has argued that there is a gross delay of seven days in the lodging of the FIR, Ex.P-3, which is a clear indicator that alleged accident never took place. He contends that Tribunal has erred in discarding judgment dated 14.12.2022, Ex.R-1, whereby driver of the offending vehicle was exonerated. He asserts that neither the claimant nor the eye witness supported the prosecution case before the criminal Court and testimony of claimant before the Tribunal cannot be relied upon.

4. I have heard counsel for the appellant and considered his submission.

5. In order to support his case, Karamvir appeared in the witness box as PW-3, and tendered his affidavit, Ex.PW-3/A, deposing about the mode and manner of the accident. He is supported by two witnesses, Pawan Kumar, PW-1, as well as Jaswinder Shamran, PW-2, who were the eye witnesses to the accident. All the three witnesses have been extensively cross-examined, but their testimony could not be shaken. The best person to refute the factum of accident was the driver of the offending vehicle, who did not appear in the witness box. An adverse influence, therefore, has to be drawn against him. Testimony of witnesses produced by the claimant amply prove that Sandeep



Kumar was driving the offending car in a rash and negligent manner.

6. Dr. Pardeep Aggarwal, PW-4, who is an Orthopedician with Paras Hospital, has produced the discharge summary, Ex.PW-4/1, of the claimant, which establishes that Karamvir remained hospitalized from 15.02.2020 to 22.02.2020 and was given medical treatment due to the injuries sustained by him in a road accident. He was also operated upon. Upon being discharged, he registered an FIR, Ex.P-3 and after investigation, a final report was submitted by the police against Sandeep Kumar regarding careless driving. Sandeep Kumar was charge-sheeted and he faced trial, which resulted in his acquittal of the charges levelled against him by judgment dated 14.12.2022, Ex.R-1. The delay in the lodging of the FIR stands explained. Claimant was undergoing treatment and was in a hospital for one week immediately after the accident. In **Ravi Versus Badrinarayn and others, (2011) 4 SCC 693**, Supreme Court has held that the lodging of a criminal case proves the factum of the accident and the delay in itself cannot be a ground for rejecting the claim petition.

7. In **Himachal Road Transport Corporation and another Versus Jarnail Singh and others, 2008 (20) RCR (Civil) 925**, High Court of Himachal Pradesh has held that the acquittal of a driver in the criminal case will not have any bearing on the findings to be recorded by the Tribunal as to whether the driver was negligent or not in causing the accident. A Division Bench of the High Court of Madras in **Tamil Nadu State Transport Corporation Versus P. Shanthi and others, Law Finder Doc ID # 922775**, came to the conclusion that mere acquittal in a criminal case does not lead to an automatic inference



that there was no negligence on the part of the driver of the offending vehicle. Standard of proof required before the Tribunal is entirely different from that of the Criminal Court. In motor accident claims cases, preponderance of probability is the test to arrive at the conclusion of negligence.

8. Therefore, neither the delay in the lodging of the criminal case nor the judgment of acquittal, Ex.R-1, will have any impact on the passing of an award by the Tribunal on a claim raised by claimant-injured in a vehicular accident. Tribunal has awarded a sum of Rs.78,000/- for expenses incurred by the claimant on the basis of medical bills, Ex.P-4 to Ex.P-12, produced by Dr. Pardeep Aggarwal. An amount of Rs.25,000/- has been granted to the claimant under the head, pain and injuries, besides an amount of Rs.10,000/- towards special diet, attendant and transport charges. As the claimant remained hospitalized for seven days and was unable to earn his livelihood for the next three months, an amount of Rs.45,000/- has been awarded to him on account of loss of income. A total amount of Rs.1,58,000/- has been granted to the injured, which does not require any interference. This Court does not find force in any of the arguments raised by counsel for the appellant.

9. Appeal *sans* merit. Appeal as well as application for condonation of delay are dismissed, though with no order as to cost.

10. Pending applications are disposed of.

19.05.2025
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No