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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 28.10.2025

FAO No.1188 of 2024 (O&M)

NISHA AND OTHERS
Versus
....Appellants

MANOJ KUMAR AND OTHERS
...Respondents

FAO No.3178 of 2022 (O&M)

SHRI RAM GENERAL INSURANCE COMPANY LIMITED
Versus
....Appellant

NISHA AND OTHERS
....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sanjay Verma, Advocate
for the applicant/appellant in FAO-1188-2024 and
for respondents No.1 to 5 in FAO-3178-2022.

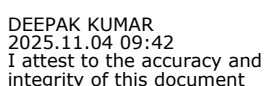
Mr. Rajbir Singh, Advocate
for the appellant in FAO-3178-2022 and
for respondent No.3/Insurance Company in FAO-1188-2024.

PANKAJ JAIN, J. (ORAL)

CM-4736-CII-2024 in FAO-1188-2024

This is an application filed under Section 5 of Limitation Act
seeking condonation of delay of 568 days in filing the instant appeal.

For the reasons recorded in the application, this Court is





5. Counsel for the insurance company Mr. Rajbir Singh, Advocate has assailed the findings recorded by the Tribunal on Issue No.1 claiming that it is a case of false implication of the insured vehicle. He submits that one Rajbir has been later on introduced claiming to be an eye-witness whereas his conduct shows that he was not an eye-witness to the accident as it is highly improbable that he noted the number of the offending vehicle as well as the motor-cycle number, yet left the deceased on the spot without attending him.

6. Per contra, Mr. Verma submits that it is a case wherein even though registration number of the vehicle was not mentioned in the FIR, but the same came-forth during the course of investigation. Police agency filed report under Section 173 Cr.P.C. before the Court and the driver of the offending vehicle is facing trial for offence punishable under Section 304-A IPC. He relies upon ratio of law laid down by Supreme Court in the case of **‘Kuncham Lavanya and others vs. Bajaj Allianz General Insurance Co. Ltd. and another’**, 2025(2) RCR(Civil) 420 wherein the Supreme Court held that where an investigating agency has submitted report under Section 173 Cr.P.C. after investigating the offence, the same has to be rebutted by leading cogent evidence.

7. I have heard counsel for the parties and have gone through records of the case.



8. The issue w.r.t. ‘standard of proof’ in the claim petitions arising out of Motor Vehicles Act is well settled and has been elaborately discussed by Supreme Court in the case of **Dulcina Fernandes and others vs. Joaquim Xavier Cruz and another (2010) 10 SCC 646**. Reiterating the ratio of law laid down in **Dulcina Fernandes’s** case (supra), Supreme Court in the case of **ICICI Lombard General Insurance Company Ltd. vs. Rajani Sahoo, (2025) 2 SCC 599** observed as under:

“xxx

xxx

xxx

7. *The core contention of the appellant is that the Tribunal as also the High Court relied on the fraudulent chargesheet prepared by the respondents in connivance with the police. In short, the contention of the appellant is that the High Court erred in relying on the chargesheet to arrive at the conclusion that the accident in question in which Udayanath Sahoo lost his life had occurred due to the rash and negligent driving of the truck insured with the appellant. Though respondent Nos.1 and 2 did not file any counter affidavit, the learned counsel appearing for them would submit that there is absolutely no illegality in relying on such documents consisting of FIR and the final report prepared in relation to the accident in question by the police, for the purpose of considering the question of negligence in a motor vehicle accident case. That apart, it is contended that the appellant despite attributing connivance of the respondents with the police, the appellant failed to prove the same. In short, it is submitted that the*



appeal is devoid of merit and the same is liable to be dismissed.

8. *As regards the reliability of charge sheet and other documents collected by the police during the investigation in motor accident cases, this Court in the case of Mangla Ram v. Oriental Insurance Co. Ltd. and Ors., (2018) 5 SCC 656; 2018 INSC 311, held in paragraph No.27, thus : -*

"27. Another reason which weighed with the High Court to interfere in the first appeal filed by Respondents 2 & 3, was absence of finding by the Tribunal about the factum of negligence of the driver of the subject jeep. Factually, this view is untenable. Our understanding of the analysis done by the Tribunal is to hold that Jeep No. RST 4701 was driven rashly and negligently by Respondent 2 when it collided with the motorcycle of the appellant leading to the accident. This can be discerned from the evidence of witnesses and the contents of the charge-sheet filed by the police, naming Respondent 2. This Court in a recent decision in Dulcina Fernandes [Dulcina Fernandes v. Joaquim Xavier Cruz, (2013) 10 SCC 646, noted that the key of negligence on the part of the driver of the offending vehicle as set up by the claimants was required to be decided by the Tribunal on the touchstone of preponderance of probability and certainly not by standard of proof beyond reasonable doubt. Suffice it to observe that the exposition in the judgments already adverted to by us, filing of charge-sheet against Respondent 2 prima facie points towards his complicity in driving the vehicle negligently and rashly. Further, even when the accused were to be acquitted in the



criminal case, this Court opined that the same may be of no effect on the assessment of the liability required in respect of motor accident cases by the Tribunal".

(Emphasis Supplied)

9. *It is true that the Tribunal had looked into the oral and documentary evidence including the FIR, final report and such other documents prepared by the police in connection with the accident in question. The Tribunal had also taken note of the fact that based on the final report, the driver of the offending truck was tried and found guilty for rash and negligent driving. The High Court took note of such aspects and found no illegality in the procedure adopted by the Tribunal and consequently dismissed the appeal.*

10. *In the contextual situation it is relevant to refer to a decision of this Court in Mathew Alexander v. Mohammed Shafi & Anr., (2023) 13 SCC 510; 2023 INSC 621, this Court held thus:-*

"12.....A holistic view of the evidence has to be taken into consideration by the Tribunal and strict proof of an accident caused by a particular vehicle in a particular manner need not be established by the claimants. The claimants have to establish their case on the touchstone of preponderance of probabilities. The standard of proof beyond reasonable doubt cannot be applied while considering the petition seeking compensation on account of death or injury in a road traffic accident. To the same effect is the observation made by this Court in Dulcina Fernandes v. Joaquim Xavier



Cruz, (2013) 10 SCC 646 which has referred to the aforesaid judgment in Bimla Devi."

11. *Thus, there can be no dispute with respect to the position that the question regarding negligence which is essential for passing an award in a motor vehicle accident claim should be considered based on the evidence available before the Tribunal. If the police records are available before the Tribunal, taking note of the purpose of the Act it cannot be said that looking into such documents for the aforesaid purpose is impermissible or inadmissible.*

12. *It is also a fact that the appellant had attributed that the respondent claimants connived with police and fraudulently prepared the chargesheet. The contention is that the vehicle insured with the appellant was not involved in the accident and the accident had occurred solely due to the rash and negligence on the part of the deceased. But the evidence on record would reveal that pursuant to the filing of the final report, cognizance was taken for rash and negligent driving which resulted in the death of Udayanath Sahoo.*

9. In view of above, keeping in view the principle w.r.t. standard of proof applicable to the proceedings under Motor Vehicles Act, 1988, this Court finds that in the absence of any evidence to rebut the report filed by the investigating agency, under Section 173 Cr.P.C. which has come on record as Exhibit P24, no fault can be found with the findings recorded by the Tribunal on Issue No.1. The same are affirmed accordingly.



10. Both the counsels have assailed the quantum of compensation.
11. The primary issue relates to income of the deceased.
12. Bare perusal of the award would reveal that the Tribunal has assessed the compensation taking salary of the deceased as Rs.14,130/- per month relying upon salary slip Exhibit P16 for the month of January, 2017.
13. Though, Mr. Rajbir Singh has tried to claim that part thereof was conveyance allowance and the same needs to be deducted however, the argument sans merit and is hereby rejected. Documentary proof w.r.t. salary of the deceased being Rs.14,130/- per month has come on record and the Tribunal has rightly relied upon the same.
14. The argument raised by Mr. Verma w.r.t. enhancement of amount awarded under loss of consortium and loss of estate also sans merit and is hereby rejected. The amounts have been rightly awarded in terms of the ratio of law laid down by Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and others, (2017) 16 SCC 680** and **‘Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others’ – Civil Appeal No.9581 of 2018, decided on 18.09.2018.**
15. Finding no merit in the both the appeals, the same are ordered to be dismissed.



- 16. Pending application, if any, shall also stands disposed off.
- 17. A copy of this order be kept on the file of other connected case.

October 28, 2025
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No