

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(221)

Reserved on: 08.12.2025
Pronounced on: 15.12.2025
Uploaded on: 16.12.2025

1. FAO No. 1541 of 2002 (O&M)

Suresh Dehra ...Appellant

Versus

P.K. Tatyal And Another ... Respondents

AND

2. FAO No. 1542 of 2002 (O&M)

Harbans Singh ... Appellant

Versus

P.K. Tatyal And Another ...Respondents

AND

3. FAO No. 1543 of 2002 (O&M)

Rajinder Kumar ...Appellant

Versus

P.K. Tatyal And Another ...Respondents

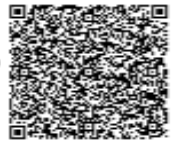
AND

4. FAO No. 1654 of 2002 (O&M)

KAMAL DEHRA ...Appellant

Versus

P.K. TATYAL AND ANOTHER ...Respondents



CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Divyam Suri, Advocate
for the Appellant in all the FAOs

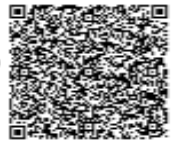
Mr. Arihant Goyal, Senior Panel Counsel
for Respondent No. 2 in all the FAOs

VIRINDER AGGARWAL,J.

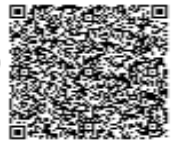
1. These four appeals arise out of a common award dated 22.01.2001 passed by the Motor Accidents Claims Tribunal, Kurukshetra, whereby the claim petitions arising from the same accident were dismissed on the ground that the rash and negligent act of respondent No.1 an Army driver stood protected as a "sovereign function". Since the appeals arise out of the same accident and the same common award, they are being disposed of together by this judgment.

BACKGROUND FACTS

2. The brief facts, as emerge from the record, are that on 16.08.1996, the claimants, namely Kamal Dehra, Rajinder Kumar, Suresh Dehra, Harbans Singh and Mohinder Singh were travelling from Rajpura to Kurukshetra in a Maruti car bearing registration No. (PB-39-0955). When they reached near Village Khanpur Kolian on the G.T. Road, a military truck bearing registration No. (89-D-78182-P), owned by the Union of India and driven by respondent No.1 (P.K. Tatyul), came from the Pipli side in a rash and negligent manner while overtaking a bus, swerved onto the wrong side of the road and violently collided with the car. Due to the impact, all occupants of the car sustained multiple injuries. Arising out of the said accident, five separate claim petitions were instituted before the Motor Accidents Claims Tribunal, Kurukshetra under Section 166 of the Motor Vehicles Act, 1988 each filed by the injured claimants seeking compensation for the injuries suffered in the same occurrence.



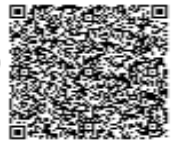
3. The learned Motor Accidents Claims Tribunal, Kurukshetra, while adjudicating all five claim petitions by a common award dated 22.01.2001, held that the accident of 16.08.1996 involving the Maruti car (PB-29-0955) and the military truck (89-D-78182-P) stood established and had occurred due to the rash and negligent driving of respondent No.1, P.K. Tatyal. This finding was based on FIR No.242 dated 16.08.1996, which detailed the manner of the occurrence and attributed fault to the military truck, the medico-legal reports and treatment documents showing injuries consistent with a frontal impact and the consistent, mutually corroborative statements of the injured claimants (PW3 to PW6), who had no motive to falsely implicate the Army driver. Having returned a clear finding of negligence against respondent No.1, the learned Tribunal nevertheless proceeded to hold that as the driver was a member of the armed forces and was stated to be on official duty at the time of the accident, his act fell within the ambit of sovereign functions. On this premise, the learned Tribunal concluded that the Union of India could not be held vicariously liable for the negligent act of its employee and accordingly, the claim petitions were not maintainable against the respondents. Further, the learned Tribunal took on record and acknowledged the injury reports of all the claimants, noting the fractures, head injury, multiple abrasions and other trauma reflected in the medico-legal documents. The learned Tribunal did not doubt the genuineness of these medical records nor the fact that the claimants had suffered substantial bodily harm as a result of the collision. Moreover, the learned Tribunal reasoned that although the claimants would ordinarily have been entitled to compensation under various heads such as medical expenses, pain and suffering, loss of income during treatment and loss of amenities, no compensation could be awarded because the accident had occurred in the course



of the Army driver's alleged discharge of sovereign functions. On this basis, the learned Tribunal held that fastening liability on the Union of India was impermissible, rendering any assessment of compensation unnecessary. Consequently, despite having found respondent No.1 negligent, the learned Tribunal abstained from assessing compensation under any statutory or conventional head and dismissed all the petitions solely on the ground that the doctrine of sovereign immunity barred the claims. Resultantly, no liability was fastened upon either the driver or the Union of India.

CONTENTIONS

4. Learned counsel for the appellants contends that the impugned award is wholly unsustainable. It is submitted that once the learned Tribunal itself recorded a categorical finding that the accident occurred due to the rash and negligent driving of respondent No.1, it could not have dismissed the claim petitions on the ground of sovereign immunity. Further, the learned counsel argues that negligent driving of a vehicle on a public road is not a sovereign function and therefore, the Union of India cannot be exonerated on that grounds. It is further urged that the evidence on record FIR No.242 dated 16.08.1996, the site plan, the medico-legal reports and the consistent testimonies of (PW3 to PW6) clearly established the manner of the occurrence. Even driver was held guilty in court marshal proceedings and was punished for causing accident due to rash and negligent driving. Despite this, the learned Tribunal failed to assess any compensation even though all injury reports, treatment documents and claims regarding expenditure and loss of income were on record. Lastly, learned counsel for appellants submits that the learned Tribunal's refusal to quantify compensation solely on the strength of sovereign immunity amounts to a misapplication of law and a failure to exercise



jurisdiction. It is, therefore, prayed that the findings be set aside and just compensation be awarded to the appellants.

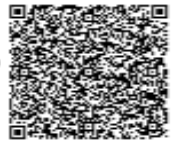
5. Learned counsel for respondents No.2 supports the findings recorded by the learned Tribunal. It is submitted that the award has been passed after proper appreciation of the evidence and that the learned Tribunal rightly concluded that the Union of India could not be held liable, as respondent No.1 was discharging sovereign functions at the time of the accident. Further, learned Counsel argues that the learned Tribunal correctly applied the doctrine of sovereign immunity and therefore, no fault can be found with the dismissal of the claim petitions. Accordingly, learned counsel contended that the impugned award is well-reasoned and calls for no interference by this Court.

OBSERVATIONS AND FINDINGS

6. I have carefully heard the arguments advanced by the learned counsel and have thoroughly examined the entire paper book.

7. I have heard learned counsel for the parties and perused the complete records. On due consideration of the findings recorded by the learned Tribunal, particularly on the issue of negligence occurred due to the rash and negligent driving of the military truck (89-D-78182-P) driven by respondent No.1, P.K. Tatyal. I find no reason to take a different view. The findings on those aspects are accordingly affirmed.

8. However, despite having recorded negligence, the learned Tribunal erred in absolving the Union of India from liability on the ground of “sovereign functions” and stated that Union of India could not be made liable, as the driver was stated to be performing sovereign functions at the relevant time. Such a finding, in the opinion of this Court, is wholly unsustainable in law and calls for interference, as negligent driving on a public road cannot be equated with a



sovereign function to absolve liability.

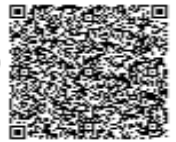
(A). Liability

9. It is well-settled that the doctrine of sovereign immunity, which originates from the English maxim “*rex non potest peccare - the King can do no wrong*”, cannot be mechanically applied in the modern constitutional scheme of India. In this regard, the Hon’ble Supreme Court in the case of ***State of Rajasthan v. Mst. Vidhyawati, (SC) 1962 AIR Supreme Court 933*** has held as under:

“15. There should be no difficulty in holding that the State should be as much liable for tort in respect of a tortuous act committed by its servant within the scope of his employment and functioning as such, as any other employer. The immunity of the Crown in the United Kingdom was based on the old feudalistic notions of Justice, namely, that the King was incapable of doing a wrong, and, therefore, of authorising or instigating one, and that he could not be sued in his own courts. In India, ever since the time of the East India Company, the sovereign has been held liable to be sued in tort or in contract, and the Common Law immunity never operated in India. Now that we have, by our Constitution, established a Republican form of Government, and one of the objectives is to establish a Socialistic State with its varied industrial and other activities, employing a large army of servants, there is no justification, in principle, or in public interest, that the State should not be held liable vicariously tortuous act of its servant.

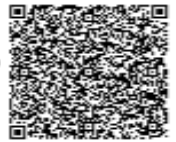
.....(emphasis supplied)”

Therefore, the traditional doctrine that acts of the State or its officials are beyond judicial scrutiny can not sustain in India, especially in matters involving tortious or negligent acts causing harm to individuals. The Hon’ble Supreme Court in ***Mst. Vidhyawati (supra)***, has made it clear that the feudal concept of



an infallible sovereign is incompatible with the constitutional framework of a republican and welfare State. Sovereign immunity, therefore, is not absolute, it operates only within a very narrow sphere of functions that are inextricably linked with the core sovereign powers of the State, and it cannot be invoked to shield routine administrative, operational, or vehicular acts of government servants from judicial scrutiny or civil liability.

10. As enshrined in the **Preamble of the Constitution of India**, sovereignty ultimately rests with the people, and the State exists to serve the welfare of its citizens ***“Salus populi suprema lex”*** - **welfare of people is supreme law**. Following the independence of India, the people of the country adopted and enacted the Constitution, thereby establishing India as a Sovereign, Socialist, Secular, and Democratic Republic. In the present constitutional framework, no individual organ of the State, whether the Executive or the Legislature can claim supremacy. The ultimate authority rests in the Constitution of India itself, which derives its legitimacy and power from the sovereign will of the people, as solemnly enshrined in the opening words of the Preamble: “We, the People of India”. The Preamble, being the soul of the Constitution, affirms that sovereignty flows from the people, and it is they who are the ultimate repository of power. Consequently, in this constitutional scheme, the rights, liberties, and entitlements of the citizenry occupy paramount importance and cannot be subordinated or sacrificed at the altar of the State, even under the guise of sovereign immunity. The State, while exercising its powers, is bound to act in consonance with the Constitution and the will of the people, and cannot arrogate to itself supremacy that overrides the fundamental rights and freedoms guaranteed to its citizens. In essence, sovereignty in India is inalienably vested in the people, and all organs of the State are constitutionally obligated to



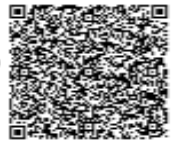
exercise their authority within this framework.

11. Moreover, the Hon'ble Supreme Court in the case of ***M/s. Kasturi Lal Ralia Ram Jain v. State of U.P., (SC)1965 AIR Supreme Court 1039*** has held that the administrative or operational functions, or the negligent operation of Government vehicles on public roads, cannot be treated as sovereign functions so as to absolve liability. The relevant part of the judgment is reproduced as under:

“28. It is not difficult to realise the significance and importance of making such a distinction particularly at the present time when, in pursuit of their welfare ideal, the Government of the States as well as the Government of India naturally and legitimately enter into many commercial and other undertakings and activities which have no relation with the traditional concept of governmental activities in which the exercise of sovereign power is involved. It is necessary to limit the area of these affairs of the State in relation to the exercise of sovereign power, so that if acts are committed by Government employees in relation to other activities which may be conveniently described as non-governmental or non-sovereign, citizens who have a cause of action for damages should not be precluded from making their claim against the State. That is the basis on which the area of the State immunity against such claims must be limited”

.....(emphasis Supplied)”

12. Applying these settled principles to the present case, it is evident that the act complained of driving a motor vehicle on a public road is purely operational in nature and has no nexus with the inalienable sovereign functions of the State. The accident occurred due to the rash and negligent driving of respondent No.1, P.K. Tatyal who was operating the military truck on a public highway. Such activity is indistinguishable from that carried out by any private



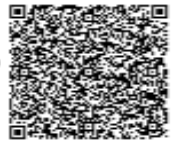
individual and, therefore, cannot be elevated to a sovereign act so as to absolve liability.

13. The legal position was further reinforced in ***Pushpa Thakur v. Union of India, AIR 1986 SC 1199***, where the Hon'ble Supreme Court, while dealing with the negligent driving of a military truck, held that the plea of sovereign immunity was wholly inapplicable. It was categorically observed that when negligence of the Army driver is established, the Union of India is vicariously liable, and denial of compensation on the ground of sovereign immunity is impermissible.

14. Accordingly, the approach adopted by the learned Tribunal in the present case is directly contrary to the settled principles stated herein above. Therefore, this Court holds that the doctrine of sovereign immunity has no application to the facts of the present case. The Union of India, being the employer and owner of the offending vehicle, is vicariously liable for the negligent act of its driver. The finding of the learned Tribunal to the contrary is legally unsustainable and is hereby set aside.

(B). Quantum of Compensation

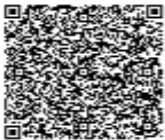
15. The Hon'ble Supreme Court in ***Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343***, has categorically held that in injury cases, the learned Tribunal is duty-bound to assess just and fair compensation under the various recognised heads such as medical expenses, pain and suffering, loss of earning during treatment, loss of future earning capacity (where proved), loss of amenities, and other consequential losses based on the evidence on record. The mandate of “just compensation” under Section 166 of the Motor Vehicles Act does not permit the learned Tribunal to avoid computation merely because issues of



liability are contested.

16. In the present cases, although the learned Tribunal itself recorded a finding of rash and negligent driving by respondent No.1 and took on record the medical documents evidencing fractures, head injuries, and multiple abrasions suffered by the appellants, it nevertheless refrained from undertaking any assessment of compensation solely on the ground of sovereign immunity. Such an approach is contrary to the principles laid down in *Raj Kumar (supra)* and defeats the very object of the Act, which is a benevolent and remedial legislation intended to provide timely monetary relief to victims of motor accidents. Accident in this case took place long ago on 16.08.1996. If the matter is remanded to learned Tribunal to carry out assessment of compensation, it would result in more delay whereas nature of proceedings warrants expeditious disposal of such matters, so that timely compensation may be granted. In this case, all material is available on record to assess suitable compensation, so this court has decided to assess the compensation at its own. Accordingly, the claims in all the petitions warrant fresh evaluation and determination of compensation in accordance with the settled principles governing assessment in injury cases under Section 166 of the Act.

17. Moreover, in all the claim petitions as well as the present appeals, the claimants have not placed on record any evidence to substantiate their injuries except their respective MLRs. No medical bills or hospital records were produced before the learned Tribunal, nor were the treating doctors examined. Nonetheless, it stands duly proved that the accident occurred due to the rash and negligent driving of the offending vehicle and that the claimants sustained injuries therein. In such circumstances, it can reasonably be inferred that the



claimants underwent pain and suffering, received medical treatment for a considerable period, and incurred expenses towards the same. Keeping in view the benevolent object of the law, this Court deems it appropriate to assess and award just compensation to the claimants in each appeal as following:

(i) FAO No. 1541 – Injured/Claimant - Suresh Dehra

&

(ii) FAO No. 1542 Of 2002 – Injured/Claimant - Harbans Singh

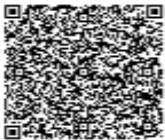
18. In these case of the injured claimants, keeping in view their age, the nature of injuries sustained, period of hospitalization for treatment, and the consequent pain, suffering and emotional trauma due to injuries on the basis of available documents, a reasonable compensation under the pecuniary and non-pecuniary heads is warranted. The following compensation is to be assessed:

Particulars	Compensation (₹)
Pain and suffering	20,000/-
Medical expenses (past and future)	20,000/-
Transportation	5,000/-
Special diet	5,000/-
Loss of amenities	10,000/-
Total	60,000/-

(iii) FAO No. 1543 Of 2002 - Injured/Claimant - Rajinder Kumar

&

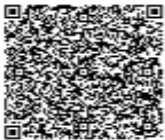
(iv) FAO No. 1654 Of 2002 – Injured/Claimant - Kamal Dehra



19. The evidence on record establishes that both claimants suffered multiple injuries, as reflected in their respective MLRs. The disability certificates-Ex. PW7/A issued by Dr. C.R. Khatri (PW7) and Ex. PW8/A issued by Dr. G.D. Mittal (PW8) recorded permanent disabilities of 35% and 5% respectively. Both doctors, however, have categorically stated that the disabilities are curable and therefore it would not affect the earning capacity of the claimants. Accordingly, no amount can be awarded under the head of loss of future earning capacity. Nevertheless, keeping in view their age, the nature of injuries sustained, the period of hospitalization and treatment, and the ensuing pain, suffering, and emotional trauma, a reasonable compensation under the pecuniary and non-pecuniary heads is warranted on the basis of the material on record. The compensation is assessed as under:

Particulars	Compensation (₹)
Pain and suffering	50,000/-
Medical expenses (past and future)	20,000/-
Transportation	5,000/-
Special diet	5,000/-
Loss of amenities	20,000/-
Total	1,00,000/-

20. In view of the above discussion, both the appeals are **allowed** and the impugned common award dated 22.01.2001 is **modified** as under:



FAO No.	Compensation (₹)
FAO No. 1541 of 2002	60,000/-
FAO No. 1542 of 2002	60,000/-
FAO No. 1543 of 2002	1,00,000/-
FAO No. 1654 of 2002	1,00,000/-

21. The enhanced compensation shall carry interest at the rate of 7% per annum from the date of filing of the claim petitions till actual realization. The liability to satisfy the award shall remain joint and several upon respondents No.1&2, Driver and Union Of India
22. The appeals stand disposed of accordingly. Pending applications, if any, also stand disposed of.
23. A photocopy of this order be placed on the file of the connected case.

15.12 .2025
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No