

2025.PHHC.002867



253.

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

CRR-1052-2019

Date of decision: 10.01.2025

Om Parkash

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jayoti Parshad Sharma, Advocate, for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision has been filed by the revisionist Om Parkash @ Omi, challenging the judgment of conviction and sentence passed by the learned trial Court under Sections 279, 337 and 304A of the IPC. The learned trial Court sentenced him to undergo rigorous imprisonment for a period of 06 months each under Sections 279 and 337 of IPC and rigorous imprisonment for a period of 02 years under Section 304A of IPC with the fine of Rs.500/-, directing the sentences to run concurrently. The learned appellate Court affirmed the conviction and sentence under these sections, but acquitted him of the charge under Section 337 of the IPC.

The case of the prosecution, in a nutshell, may be noticed as thus:

On the afternoon of 14.02.2010, the complainant, Toni, was seated outside his shop near the Punjab National Bank in Nissing, with his 05 year old niece, Simran (hereinafter referred to as 'deceased No.1'), standing nearby. The complainant's father, Jai Singh, was also present. Balo Devi (hereinafter referred to as 'deceased No.2'), a pedestrian, was walking along the footpath. At around 03:30 PM, a maruti van bearing registration No.HR-48A-2686 approached from the direction of Kaithal at high speed. The van struck deceased No.2 from behind, veered towards the complainant's shop, and collided with the complainant and deceased No.1 before coming to a halt in a nearby drain.

PW2 Jai Singh rushed the injured persons-Toni, deceased No.1 and deceased No.2, to the Civil Hospital, Nissing. While deceased No.2 succumbed to her injuries during treatment, deceased No.1 due to the seriousness of her injuries was referred to PGI, Chandigarh, where she passed away on 16.02.2010.

Based on the statement of the complainant, the police registered an FIR against the revisionist under Sections 279, 337 and 304A of IPC. Following investigation, the revisionist was arrested on 17.02.2010 and charge-sheet was then filed against him. During trial, the prosecution presented the following witnesses:

PW1-Dr. Anu Sharma, who conducted the postmortem of deceased No.2;

PW2-Jai Singh, eyewitness and the father of the complainant;

PW3-Toni, complainant and an eyewitness;

PW4-ASI Shamsheer Singh, Investigating Officer.

The revisionist denied the incriminating material against him in his statement recorded under Section 313 of the Cr.P.C. and pleaded innocence and claimed false implication.

The trial Court, after analysing the evidence, convicted the revisionist under Sections 297, 337, 304-A of IPC. In the appeal, the conviction under Section 337 of IPC was set aside. However, the conviction and sentence under Sections 279, 304A of IPC were upheld.

The learned counsel for the revisionist has raised the following arguments:

- (i) the prosecution failed to prove the identity of the revisionist as the driver of the offending vehicle;
- (ii) the presence of the complainant-PW3 and PW2-Jai Singh at the scene of the accident is doubtful, and their testimony is totally unreliable;
- (iii) contradictions in the evidence including the positioning of deceased No.2 in the site plan, undermine the case of the prosecution;
- (iv) the identification of the revisionist by the complainant is suspect, as he was not previously known to him;

- (v) deceased No.2 was walking negligently on the right side of the road and had, thus, contributed to the accident.

Learned counsel for the State, on the other hand, has argued as follows:

- (i) The identity of the revisionist as the driver of the offending vehicle stands supported by the consistent and corroborated testimony of both PW2-Jai Singh, PW3-Toni, both of whom knew the revisionist prior to the accident in question;
- (ii) the sequence of events and absence of any report with respect to mechanical defects in the offending vehicle proved that the accident was caused due to the rash and negligent driving of the revisionist;
- (iii) The alleged contradictions in the evidence of the prosecution are immaterial and do not affect the core facts of the case.

I have heard learned counsel for the parties and perused the material placed on record.

The prosecution has conclusively been able to establish that the revisionist was driving the offending vehicle. PW2-Jai Singh testified that he had known the revisionist as a taxi driver for over 08 years, a fact that the revisionist did not dispute during cross-examination. The complainant PW3-Toni named the revisionist in the FIR, filed promptly

after the accident in question, leaving no room for doubt regarding his identity.

Further, the evidence presented leads no ambiguity about the rash and negligent driving of the revisionist. The offending vehicle struck deceased No.2, veered towards the shop, hit the complainant and deceased No.1, and came to a stop only after getting struck in a drain. The mechanical inspection report confirmed that the offending vehicle had no defects, and the revisionist failed to offer any explanation for his inability to control the offending vehicle. The only plausible conclusion is that the revisionist was driving recklessly, leading to the tragic deaths of two individuals.

Furthermore, the arguments challenging the credibility of PW2-Jai Singh and PW3-Toni are baseless. Both witnesses provided consistent accounts of the incident. Minor inconsistencies, such as the positioning of deceased No.2, do not affect the overall reliability of their testimony. Moreover, the suggestion that the presence of PW3 at the scene is doubtful because he failed to move away from the oncoming vehicle is speculative and ignores the sudden nature of the incident.

Lastly, the argument that deceased No.2 was negligent and contributed to the accident is untenable. The revisionist, as the driver, had a duty to exercise caution, especially on a busy road in a populated area. The evidence shows that the revisionist failed to maintain control of the vehicle, making him solely responsible for the accident.

In view of the above, this Court finds no merit in the arguments advanced by the learned counsel for the petitioner-revisionist. The prosecution has successfully proved that the revisionist was driving the offending vehicle in a rash and negligent manner resulting in the deaths of Balo Devi and Simran. The judgment of conviction and sentence passed by learned trial Court and affirmed by the learned appellate Court are upheld and the instant revision petition is dismissed accordingly.

(MANJARI NEHRU KAUL)
JUDGE

January 10, 2025
sanjeev

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