



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

215

**FAO No.1246 of 2000 (O&M)
Date of Decision :03.07.2025**

Anil Kumar and another

.....Appellants

Versus

Muktesh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Ishan Aggarwal, Advocate for
Mr. Sudhir Aggarwal, Advocate for the appellants.

Mr. Sidhant Mehra, Advocate for
Mr. Anil Mehra, Advocate for respondent No.7.

VIKRAM AGGARWAL, J. (Oral):

The present appeal assails the award dated 28.04.2000 passed by the Motor Accident Claims Tribunal, Chandigarh vide which the claim petition preferred by respondents No.1 to 5-claimants under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the MV Act) for the grant of compensation of Rs.10,00,000/- on account of death of one Siribhagwan in a motor vehicle accident which took place on 30.09.1998 was allowed.

2. The appellants are the driver and owner (respondents No.4 and 5 in the claim petition) of tractor bearing registration No.HRU-3448 (hereinafter referred to as offending vehicle No.2).

3. The case set up by the claimants who were the widow, two minor children and parents of deceased Siribhagwan was that on 30.09.1998,



Siribhagwan along with Bishan Singh and Braham Dutt were going from Gurgaon to his village in his three wheeler bearing registration No. HR-26-PA-0302 (hereinafter referred to as offending vehicle No.1) which was being driven by its driver Sunil Kumar (respondent No.1 in the claim petition) in a rash and negligent manner and at a very high speed. When the three wheeler reached near Baba Lakkar Mandir on Gurgaon Palam Road, the offending vehicle No.2 which was being driven by its driver Anil Kumar (appellant No.1) in a rash and negligent manner and at a very high speed came from the opposite side and there was a head on collision between both vehicles. Siribhagwan suffered injuries as a result of which he expired at the spot.

4. The matter was reported to the police, upon which FIR No.1216 dated 30.09.1998 was registered under Sections 279 and 304-A IPC at Police Station Sadar Gurgon.

5. The claim petition was opposed by the respondents. The driver of the three wheeler was given up whereas its owner denied that the offending vehicle No.1 was being driven rashly or negligently. The Insurance company of offending vehicle No.1. i.e. respondent No.3 filed its written statement raising usual defenses, while denying the factum of accident. The owner and driver of the offending vehicle No.2 (present appellant) took a stand that the accident had taken place on account of the rash and negligent driving of offending vehicle No.1. Notably, offending vehicle No.2 was not insured.

6. From the pleadings of the parties, following issues were framed by the Tribunal:-

- 1. Whether Siribhagwan died as a result of rash and negligent driving of vehicle No.HRU-3448 by its driver Anil**



Kumar, respondent No.4? OPP

2. Whether respondent No.4 was not holding a valid driving licence at the time of alleged accident. If so to what effect? OPR-3.

3. To what amount of compensation the petitioners are entitled to and from whom? OPP

4. Relief.

7. Parties led their respective evidence.

8. On issue No.1, the Tribunal returned a finding that the accident had been caused as a result of contributory negligence of both drivers and the negligence was apportioned as 50-50. On the issue of quantum, the age of Siribhagwan was assessed as 38 years. His monthly income was assessed at Rs.4074/- per month. Deducting 1/4th of the income for personal expenses, the dependency was assessed at Rs.3055.50 per month i.e. Rs. 36,666/- per annum. Applying a multiplier of 16, the compensation was assessed at Rs.5,86,656/-. After adding the amount for funeral expenses etc., the total compensation was assessed at Rs. 5,93,656/-. As noticed earlier, liability to pay the compensation was apportioned at 50% each.

9. I have heard learned counsel for the parties.

10. Learned counsel for the appellants submits that the Tribunal erred in holding it to be a case of contributory negligence whereas in the cross-examination, Bishan Singh PW-2 who was an eye witness had stated that the accident had taken place only on account of rash and negligent driving of the three wheeler. He submits that under the circumstances, there was no occasion for the Tribunal to hold it to be a case of contributory negligence.



11. *Per contra*, learned counsel representing respondent No.7 (Insurance Company of offending vehicle No.1) submits that there is no illegality in the findings recorded by the Tribunal, for, the evidence of the witness was required to be examined as a whole.

12. I have considered the submissions made by learned counsel for the parties and have gone through the award passed by the MACT.

13. Siribhagwan was travelling in the offending vehicle No.1 along with Bishan Singh and Braham Dutt. Bishan Singh stepped into the witness box as PW-2 and deposed that the accident, as a result of which Siribhagwan had expired, had taken place on account of the rash and negligent driving of both vehicles.

14. No doubt in the cross-examination, at one point he stated that the it was only the driver of the offending vehicle No.1 who was at fault and the accident had been caused since he was driving the said vehicle at a very fast speed and in a rash and negligent manner. However, as rightly observed by the MACT, the statement of Bishan Singh PW-2 would have to be considered as a whole. In the examination-in-chief, the said witness repeatedly stated that the accident had taken place on account of the rash and negligent driving of both vehicles i.e. offending vehicles No.1 and 2 and even in the cross-examination, at many stages, he took the same stand. Apart from that, it was proved on record that it was a head on collision which also proves that the findings recorded by the MACT were not erroneous. Having considered the submissions, this Court does not find any reason to interfere in the findings recorded by the Tribunal on the issue of negligence and the same are, therefore, upheld.



15. That being so, I do not find any merit in the instant appeal and the same is accordingly, dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

03.07.2025
Manoj Bhutani

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