



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

(206)

FAO no. 1868 of 2000(O&M)

Reserved on:14.11.2025

Pronounced on:17.11.2025

JOGINDER SINGH**... Appellant****Versus****GURDIP SINGH AND OTHERS****...Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. Ishan Cooner, Advocate,
for the appellant.

None for respondent No.1

Respondent No.2 is reported to be expired

Respondent No.3 is ordered to be deleted from the array
of respondent vide order dated 08.10.2001

VIRINDER AGGARWAL,J

1. The present appeal has been preferred by the appellant assailing the award dated 12.08.1999 passed by the learned Motor Accident Claims Tribunal, Ferozpur, whereby the claim petition filed by the appellant for grant of compensation on account of death of Pardeep Singh suffered in a motor vehicle accident on 24.09.1991 came to be dismissed.

BACKGROUND FACTS

2. The brief facts of the case are that on 24.09.1991 at about 6:30 P.M., Pardeep Singh, a minor boy aged around 15-16 years and a student of the



Government Senior Secondary School, Jallalabad (West), was proceeding towards the town on his bicycle, keeping to the correct left side of the road near the new Bus Stand, Jallalabad (West). At that time, a truck bearing registration No. (PJU-9865), alleged to have been driven in a rash and negligent manner by respondent No.2, Kewal Singh, came from behind at a high speed and, while being driven in a zig-zag manner, struck the bicycle of the deceased. On account of the impact, Pardeep Singh suffered multiple grievous injuries. He was removed from the spot by BSF personnel and taken to the Civil Hospital, Jallalabad, from where he was referred to the Medical College, Faridkot. Despite medical treatment, he succumbed to the injuries. Consequently, a claim petition was filed before the Motor Accident Claims Tribunal, Ferozpur, seeking compensation for the death of Pardeep Singh in the accident.

3. The learned Tribunal, upon examining the evidence, held that although the claimant successfully proved his status as the father and legal heir of the deceased Pardeep Singh but he completely failed to establish the foundational facts of the accident. The learned Tribunal observed that the alleged eyewitness, Mohinder Singh (PW2) did not present himself for cross-examination, rendering his examination-in-chief inadmissible and incapable of supporting the claimant's case. Further, the claimant himself examined as (PW3) admitted that he was not present at the scene of occurrence and thus possessed no personal knowledge regarding the manner of the accident, the identity of the driver or the involvement of truck No. (PJU-9865) his statement was held to be purely hearsay. The learned Tribunal stated that the FIR (Ex. P2) was found insufficient as it did not disclose who was driving the vehicle, how the accident occurred, or whether the truck named therein was actually involved in the incident. The learned Tribunal found that there was no independent witness,



documentary proof, or corroborative evidence that was led to connect the injuries and subsequent death of the deceased with the said truck or to show rash and negligent driving by respondent No.2. Consequently, the learned Tribunal held that the claimant had failed to prove the accident itself, much less the involvement or liability of the respondents. Consequently, the claim petition was dismissed holding that the claimant was not entitled to any compensation.

CONTENTIONS

4. Learned counsel for the appellant argued that the learned Tribunal committed a serious error in dismissing the claim petition despite sufficient material showing that Pardeep Singh died in a motor vehicle accident. Further, learned counsel submitted that the Tribunal wrongly rejected the testimony of Mohinder Singh (PW2), and failed to appreciate that the FIR (Ex. P2) itself mentioned the number of the offending truck, clearly indicating its involvement. Learned counsel for appellant contended that once the occurrence of the accident and the identity of the vehicle were evident, The learned Tribunal was not justified in concluding that rash and negligent driving or the liability of respondents No.1 and 2 had not been established. Further, learned counsel urged that the findings of the learned Tribunal were contrary to the evidence on record and that the award, being based on conjectures, deserved to be set aside with grant of compensation as claimed.

OBSERVATIONS AND FINDINGS

5. I have heard learned counsels for the parties and perused the available record, particularly the award passed by the learned Tribunal.



6. At the outset, upon a careful scrutiny of the oral and documentary evidence, this Court finds substantial deficiencies in the claimant's attempt to establish the occurrence of the alleged accident. The primary contention of the appellant is that the learned Tribunal erred in discarding the evidence of Mohinder Singh (PW2) who was not made available for cross examination. The importance of cross-examination has been elucidated on several occasions by Hon'ble Supreme Court including by a Constitution Bench of in **Kartar Singh v. State of Punjab 1994 (3) SCC 569**, which laid down as follows:

"278. Section 137 of the Evidence Act defines what cross-examination means and Sections 139 and 145 speak of the mode of cross-examination with reference to the documents as well as oral evidence. It is the jurisprudence of law that cross-examination is an acid test of the truthfulness of the statement made by a witness on oath in examination-in-chief, the objects of which are:

(1) to destroy or weaken the evidentiary value of the witness of his adversary;

(2) to elicit facts in favour of the cross-examining lawyer's client from the mouth of the witness of the adversary party;

(3) to show that the witness is unworthy of belief by impeaching the credit of the said witness;

and the questions to be addressed in the course of cross-examination are to test his veracity; to discover who he is and what is his position in life; and to shake his credit by injuring his character.



279. The identity of the witness is necessary in the normal trial of cases to achieve the above objects and the right of confrontation is one of the fundamental guarantees so that he could guard himself from being victimised by any false and invented evidence that may be tendered by the adversary party."

..... (emphasis supplied)

7. Thus, the object of cross-examination is to test the veracity of the evidence and the credibility of the witness. Since PW2 did not remain present for cross-examination, his examination-in-chief remained untested, rendering it inadmissible in law. Hence, the learned Tribunal's decision to exclude his untested statement from consideration is legally sound and unassailable. Further, the claimant Joginder Singh (PW3) candidly admitted that he was not present at the spot and had no personal knowledge about the manner of the occurrence, the identity of the driver, or whether truck No. (PJU-9865) was involved, thereby reducing his testimony to mere hearsay. This Court also finds the conclusions of the learned Tribunal fully justified, as the FIR (Ex. P2), though produced through Constable Chand Singh (PW4), does not disclose the identity of the driver, the manner in which the accident took place, or even confirm ownership of the alleged vehicle, and therefore cannot be treated as substantive proof of the accident.

8. Moreover, the medical evidence led through Dr. Hakumat Rai (PW1) merely indicates that the injuries could be the result of an accident, but does not connect them to the particular truck or corroborate the occurrence in the manner alleged. Moreover, PW4 stated that respondent No.2, Kewal Singh, had been acquitted in the criminal case relating to the alleged accident, which further

weakens the claimant's version. In these circumstances, the learned Tribunal



rightly held that, in the absence of any independent witness, documentary corroboration, or contemporaneous record, the claimant failed to establish that the deceased Pardeep Singh sustained injuries in a road accident involving truck No. (PJU-9865) or that respondent No.2 was driving the said vehicle rashly or negligently at the relevant time.

9. It is well settled that in a claim under Section 166 of the Motor Vehicles Act, the burden lies upon the claimants to establish by cogent evidence the factum of accident, rash and negligent driving of the offending vehicle, and their locus standi as legal representatives of the deceased. In **Oriental Insurance Co. Ltd. v. Meena Variyal & Ors. (2007) 5 SCC 428** and **Surender Kumar Arora v. Dr. Manoj Bisla, 2012 (4) SCC 552**, it was held that the claimant must establish, by cogent evidence, the factum of accident, negligence, and involvement of the vehicle. Hence, In the absence of proof of these essential elements, the claim cannot be entertained. The learned Tribunal's findings are thus based on a sound appreciation of evidence and settled legal principles.

10. In view of the above discussion, the claimant's account cannot be considered reliable. It is settled law that a claimant must establish rash and negligent driving by the driver and identify the driver at least on the balance of probabilities. In the present case, the claimant has failed to discharge this burden. The learned Tribunal rightly held that the burden of proof rests on the claimant and was not discharged. Procedural omissions or the non-production of certain documents cannot compensate for the absence of proof of the essential facts of the accident. Accordingly, the learned Tribunal's conclusions are reasonable, well-founded, and legally sustainable.



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11. Accordingly, the present appeal is found to be devoid of merit and is, accordingly, **dismissed**.

12. Since the main appeal stands decided, any miscellaneous(s), if any, also stands disposed of.

(VIRINDER AGGARWAL)
JUDGE

17.11.2025
sourav pathania

- (i) Whether speaking/reasoned : Yes/No
- (ii) Whether reportable : Yes/No