

**FAO-1096-1998 (O&M) &  
FAO-1470-1998 (O&M)**

**I.      FAO-1096-1998 (O&M)**

**Preet Mohinder Singh Sodhi** **...Appellant**

**Smt. Santro Devi (Deceased)**  
**Through LRs and others**

## ...Respondents

**II.      FAO-1470-1998 (O&M)**

Jaswinder Singh

...Appellant

**Smt. Santro Devi (Deceased)**  
**Through LRs and others**

## ...Respondents

Present: Mr. Ajaivir Singh, Advocate  
for the appellant in FAO-1096-1998 and  
for respondent No.8 in FAO-1470-1998.

Mr. Munish Jolly, Advocate  
for the appellant in FAO-1470-1998 and  
for respondent No.7 in FAO-1096-1998.

Mr. Ankit Joshi, Legal Aid Counsel  
for respondents No.1, 5 & 6.

Ms. Mallika Dhillon, Advocate for  
Ms. S.S. Sidhu, Advocate  
for the respondent-Insurance Company.

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**DEEPAK GUPTA, J.**

This order disposes of the two First Appeals (FAOs) arising out of the common award dated 17.02.1998 passed by the Learned Motor Accident Claims Tribunal (MACT), Kurukshetra, whereby compensation of



₹1,92,000/- with interest was awarded to the claimants Smt. Santro Devi & others, for the death of Ram Kishan in a motor-vehicle accident.

2. For convenience sake, the parties are referred according to their status before the Tribunal. Trial Court record was called for and per-used.

3. According to the case set up by the claimants, on 04.06.1995 at about 11:00 A.M., Sukhwant Singh was riding motorcycle bearing registration No. HR-41-2880 with Ramkishan (since deceased) as a pillion rider. When the motorcycle had reached approximately one kilometre from Pehowa towards Kaithal, a scooter bearing registration No. PCP-1906, being driven by respondent No.1 in a rash and negligent manner at a high speed, came from the opposite direction, swerved to the wrong side of the road and struck the motorcycle. Due to the impact, both Sukhwant Singh and Ramkishan sustained injuries. Ramkishan was shifted to PGI, Chandigarh, where he succumbed to the injuries during treatment.

4 On the statement of Varinder Kumar (AW3), FIR No. 177 dated 04.06.1995 was registered at Police Station, Pehowa against the scooter driver in respect of the accident. The claimants pleaded that the deceased Ramkishan was about 35 years of age, of sound health and physique, and employed with Haryana Machinery Store, with his dependents reliant upon his earnings. They claimed compensation of ₹5,00,000/- against the driver and owner of the offending scooter. In the alternative, it was pleaded that if the Court comes to conclusion that the accident occurred due to rash and negligent driving of motorcycle No. HR-41-2880, then the driver, owner and insurer of the said motorcycle be held jointly and severally liable to pay the compensation.

4. The claim petitioners sought ₹5,00,000/- (with alternate pleadings) and impleaded various persons after investigation revealed confusion about the identity of the scooter involved (registration No. PCP-1906 v. PCP-1908). During course of proceedings the following position emerged:



Jaswinder Singh was initially impleaded as driver of scooter No. PCP-1906; Preet Mohinder Singh Sodhi was impleaded as owner of Scooter No. PCP-1906; Pawan Kumar was found to be owner of Scooter No. PCP-1908. The motorcycle (HR-41-2880) was owned by Rajkishan and insured with United Insurance Company. Sukhwant Singh (motorcycle driver) did not contest the petition and did not give evidence.

5. Initially, Jaswinder Singh was impleaded as respondent No.1 being the driver of scooter No. PCP-1906, and Pawan Kumar was impleaded as respondent No.2, its owner. It was further stated that the particulars of the insurer of the said scooter would be disclosed by respondents No.1 and 2. Subsequently, the claim petition was amended in view of the police investigation, which revealed that the accident had, in fact, been caused by scooter No. PCP-1908 and not scooter No. PCP-1906. Accordingly, Pawan Kumar (respondent N: 2 (a) was found to be the owner of scooter No. PCP-1908, while Preet Mohinder Singh Sodhi, the owner of scooter No. PCP-1906, was impleaded as respondent No.2(b).

6. It also emerged during trial that scooter No. PCP-1906 was not insured. Besides, Sukhwant Singh (driver of motorcycle No. HR-41-2880), Raj Kishan (its owner), and United India Insurance Company (its insurer) were impleaded as respondents No.4 to 6.

7.1 In his written statement, respondent No.1, Jaswinder Singh, categorically denied driving scooter No. PCP-1906 or having any connection with it, and therefore contended that the claim petition was not maintainable against him.

7.2 Similarly, respondent No.2(b), Preet Mohinder Singh Sodhi, owner of scooter No. PCP-1906, denied any involvement of his vehicle in the accident, asserting that as per the police investigation, the accident was caused by scooter No. PCP-1908, which had been seized and against which the challan was filed.



7.3 Respondent N: 5 i.e., owner of motor-cycle repudiated claim by submitting that his vehicle was duly insured at the time of accident.

7.4 Above respondents accordingly sought dismissal of the claim petition.

7.5 Respondent N:4 - Driver of motor-cycle did not contest the petition and was proceeded ex-parte.

8. In the written statement filed by respondent No.6, the insurer of the motorcycle, it was pleaded that the accident had occurred solely due to the negligence of respondent No.1, the driver of the scooter, who had come to the wrong side of the road and collided with the motorcycle. On this basis, the insurer sought exemption from the liability to pay any compensation.

9. After framing issues and considering the evidence, the learned Tribunal held that the accident was caused by the rash and negligent driving of scooter No. PCP-1906 by respondent No.1, Jaswinder Singh. It further found that the said scooter was owned by respondent No.2(b) Preet Mohinder Singh Sodhi, and was not insured. The Tribunal assessed the compensation payable to the claimants at ₹1,92,000/-. Accordingly, by award dated 17.02.1998, the Tribunal directed that the said amount, along with interest, be paid to the claimants by respondents No.1 and 2(b) jointly and severally.

10. Aggrieved by the aforesaid award, Jaswinder Singh and Preet Mohinder Singh have preferred the present two appeals.

11. The appeals have been contested only by the claimants; and by the insurance company of motorcycle. The driver as well as the owner of the motorcycle No.HR 41-2880 were proceeded against ex-parte.

12. Learned counsel appearing for appellant–Jaswinder Singh contends that, as per the FIR as well as the case initially pleaded by the claimants, the scooter involved in the accident was scooter No. PCP-1906.



The claimants did not disclose the involvement of scooter No. PCP-1908. It is submitted that scooter No. PCP-1908 was, in fact, recovered from appellant–Jaswinder Singh, who had no concern whatsoever with scooter No. PCP-1906, and therefore he cannot be held liable to pay any compensation.

13. Conversely, learned counsel representing appellant–Preet Mohinder Singh Sodhi submits that he is the owner of scooter No. PCP-1906 and has no connection with scooter No. PCP-1908. He argues that, as per the police investigation, it was scooter No. PCP-1908 which was involved in the accident. He further relies upon his own testimony as RW3, wherein he categorically deposed that he had never gone towards Pehowa in his lifetime, nor had he ever driven his scooter in that direction. He also testified that he never handed over scooter No. PCP-1906 to Jaswinder Singh or to any other person, and that he has always driven the said scooter himself.

14. Counsels for both appellants further contend that the sole witness examined by the claimants on the aspect of negligence was AW3 Virender Kumar, the author of the FIR. In his testimony, Virender squarely attributed negligence to the driver of motorcycle No. HR-41-2880, alleging that it was due to his rash and negligent driving that the accident occurred. Significantly, this testimony was not challenged in cross-examination by the insurer. Moreover, the driver of the motorcycle, Sukhwant Singh, neither contested the claim petition before the Tribunal nor entered the witness box to rebut the allegations of negligence on his part. In these circumstances, it is urged that the appeals filed by both appellants be allowed and the award against them be set aside.

15. On the other hand, learned Legal Aid Counsel appearing for the claimants submits that, on account of the dispute between the scooter and the motorcycle as to which vehicle was responsible for the accident, the claimants have been deprived of compensation till date. A prayer is, therefore, made for early award of the compensation in favour of the claimants.



16. This court has considered submissions of both the sides and have appraised the entire record.

17. On behalf of the claimants, three witnesses were examined: AW1 (Santro), AW2 (Rajkishan – owner of the motorcycle), and AW3 (Varinder Kumar – author of the FIR and an eyewitness). On behalf of the respondents, both appellants (Jaswinder Singh and Preet Mohinder Singh Sodhi) gave evidence. The only independent eyewitness for the claimants was AW3 Varinder.

18. AW3's evidence is crucial. Although in the FIR, he initially implicated the scooter driver, but in his testimony, he unequivocally attributed the cause of the collision to the rash and negligent driving of the rider of the motorcycle (Sukhwant Singh), who attempted to overtake a parked truck and thereby caused the oncoming scooter to collide with the motorcycle. During cross-examination, AW3 confirmed that he had informed the police that the motorcyclist was at fault. AW3's testimony remained unrebutted. Notably, the insurance company did not cross-examine AW3 on this crucial point, and the motorcycle driver did not give evidence to contradict AW3.

19. In a civil claim founded on preponderance of probability, the court must accept credible and unrebutted eyewitness testimony unless there is cogent reason to reject it. The Tribunal's conclusion that the scooter (PCP-1906) was solely at fault rests largely on the contents of FIR and that said scooter not being insured, there was manipulation; but FIR cannot automatically override a credible, consistent, and unrebutted eyewitness account given in court, particularly when it is scooter number PCP 1908, which was seized from respondent N: 1 Jaswinder in accident condition. When the eyewitness has made a categorical statement and when that testimony stands unchallenged, the same must be given substantial weight. The Tribunal's wholesale rejection of AW3's testimony without adequate reason is unsustainable.

20. Applying the above principles, this court finds that on the balance of probabilities, the accident occurred due to rash and negligent driving by the rider of the motorcycle (Sukhwant Singh) in attempting to overtake a parked truck; and the oncoming scooter collided with the motorcycle as a consequence. The Tribunal’s finding that the scooter driver/owner (*Jaswinder and Preet Mohinder – appellants herein*) were responsible is, therefore, reversed.

21. Consequently, the appeals preferred by Jaswinder Singh and Preet Mohinder Singh Sodhi are allowed. The award dated 17.02.1998 is set aside to the extent of holding appellants Jaswinder Singh and Preet Mohinder Singh as liable to pay the compensation. It is held that the driver, owner and insurer of motorcycle No. HR-41-2880 (*the parties impleaded as respondents No.4, 5 & 6 before the Tribunal*) shall be jointly and severally liable to satisfy the Tribunal’s award of ₹1,92,000/- along with interest as provided in the Tribunal’s award.

22. There being no appeal by the claimants against the quantum assessed by the Tribunal, so the quantum stands undisturbed. Parties shall act in accordance with this order.

15.09.2025  
Yogesh

(DEEPAK GUPTA)  
JUDGE

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