



FAO No.1491 of 2025 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1491 of 2025 (O&M)

Reserved on:29.05.2025

Pronounced on:07.07.2025

Cholamandalam MS General Insurance Company Ltd.

....Appellant

Versus

Karamdeep Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present: Mr. Abhimanyu Batra, Advocate,
for the appellant.

Mr. Abhishek Jindal, Advocate,
for respondents No.1 to 5.

Mr. Ankit Chahal, Advocate,
for respondents No.6 and 7.

DEEPINDER SINGH NALWA, J. (Oral)

1. The present appeal has been preferred against the Award dated 11.11.2024 passed by the learned Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal') whereby, the claim petition filed by the claimants was allowed and a compensation of Rs.22,29,992/- was awarded.

2. The brief facts of the case are as under:

On 27.11.2022 Daman Deep Singh (deceased) was going from Pillukhera to village Kalwa by driving his motorcycle and when he reached about a distance of 2 kilometers from Police Station Pillukhera, a tractor with trolleys being driven by its driver at high speed and in a rash and negligent manner came

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from Kalwa side and hit the motorcycle of Daman Deep Singh. On account of the accident, Daman Deep Singh fell down and suffered grievous and serious injuries. Baljeet Singh son of Gurdayal Singh, resident of village Dhatrath reached the spot on getting information. The driver of the tractor was on the spot but on finding opportunity, he fled away from the spot with tractor trolleys. Baljeet Singh shifted Daman Deep Singh to the Civil Hospital, Jind for treatment, however the doctor declared Daman Deep Singh as dead. At the time of death of Daman Deep Singh, he was aged about 31 years.

An FIR was registered on 27.11.2022 by Baljeet Singh under Sections 279 and 304-A IPC at Police Station Pillukhera.

3. Respondent No.1 being a widow, respondents No.2 and 3 minor children of deceased Daman Deep Singh and respondents No.4 and 5 parents of Daman Deep Singh (deceased) filed a claim petition under Section 166 read with Section 140 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act 1988') before learned Tribunal for grant of compensation of Rs. 1 Crore alongwith interest @ 24% per annum from the date of death of Daman Deep Singh till realization.

4. The case of the claimants was that the abovesaid accident took place due to rash and negligent driving of respondent No.6 who was the driver of the offending vehicle and respondent No.7 was the registered owner of the offending vehicle. The appellant insured the offending vehicle. The appellant as well as respondents No.6 and 7 duly filed separate written statements.

5. The stand of the appellant in the written statement was that in fact no accident took place with the offending vehicle and the offending vehicle has falsely been involved in the alleged accident. The case of the appellant-insurance

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company was that respondent No.6-driver did not have the valid driving licence at the time alleged accident. It was also the case of the appellant that no accident took place with the offending vehicle and further it was also the case of the appellant that an excess amount of compensation has been claimed by the claimants.

6. Respondents No.6 and 7 filed the joint written statement before the learned Tribunal and their stand was that no accident took place with the tractor bearing registration No. HR-31L-9334 on the alleged date, time and place and a false case has been registered against them.

7. From the pleadings of the parties, the Tribunal framed the following issues:-

- 1) Whether Damandeep Singh son of Baldeep Singh died in the accident, which occurred on 27.11.2022 at about 9.30 AM about 2 KM from P.S. Pillukhera within the jurisdiction of Police Station Pillukhera caused by rash and negligent driving of offending Tractor bearing registration No.HR-31L-9334 being driven by respondent No.1, owned by respondent No.2 and insured with respondent No.3? OPP
- 2) If issue No.1 is proved, whether the claimants are entitled to compensation, if so to what amount and from whom? OPP
- 3) Whether respondent No.1 was not holding valid and effective driving licence at the time of accident and the offending vehicle was being driven in violation of the condition of insurance policy? OPR-3
- 4) Relief.”

8. Learned Tribunal after taking into consideration the evidence led by the parties and facts of the case, decided the claim petition in favour of the claimants by awarding a compensation of Rs.22,29,992/- vide Award dated

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11.11.2024. Respondent No.6-driver, respondent No.7-owner and the appellant-insurance company were held jointly and severally liable to pay the amount of compensation to all the claimants alongwith interest @ 7.5% per annum from the date of filing of the claim petition till actual realization. Out of the total amount, an amount of Rs.1,32,000/- was awarded towards loss of consortium and the same was to be given in the shape of Rs.44,000/- each to the widow and children of the deceased Daman Deep Singh (deceased). Out of the remaining compensation, 30% was to be given to the widow of Daman Deep Singh (deceased). 20% each was to be given to the minor children of Daman Deep Singh (deceased) and the remaining compensation amount was to be given to the parents of Daman Deep Singh (deceased) in equal share i.e. 15% each.

9. Aggrieved against the abovesaid Award dated 11.11.2024 passed by learned Tribunal, Jind, the appellant-insurance company has filed the present appeal challenging the same.

10. Learned counsel appearing on behalf of the appellant-insurance company has argued that the offending vehicle was not involved in the alleged accident as there was no reference made to the registration number of the tractor at the time of lodging of FIR. It has also been argued by learned counsel for the appellant that the registration number of the offending vehicle was mentioned at the time of submission of application by Baljeet Singh during the investigation of the police. Further, it has also been contended by learned counsel that Baljeet Singh was not an eye witness nor he stepped into the witness box as he expired during the pendency of claim petition as such, the deposition of Baljeet Singh cannot be trustworthy and therefore, the appellant-insurance company is not liable to pay the compensation.

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11. On the other hand, learned counsel appearing on behalf of respondents No.1 to 5-claimants has argued that the offending vehicle was involved in the accident which is clear from the testimonies of PW2 Hamraj (son of Baljeet Singh), PW3 Harshdeep and PW4 Pawan Kundu and the accident took place due to the rash and negligent driving of respondent No.6 i.e. driver. It was also contended by learned for respondents-claimants that the compensation awarded by learned Tribunal is in accordance with law.

12. I have heard learned counsel for the parties and perused the record of the case.

13. The issue involved in the present case is as to whether, the offending vehicle was involved in the accident on 27.11.2022. It is well settled law that learned Tribunal in claim cases, in case, the accident is disputed or involvement of the vehicle is concerned, the cases are decided by learned Tribunal on the basis of preponderance of probabilities and strict proof of evidence are not applied. Reliance has been made to a judgment of the Hon'ble Supreme Court in case titled as **Bimla Devi and others versus Himachal Road Transport Corpn. and others**, 2009 (13) SCC 530. The relevant portion of the aforesaid judgment is reproduced here as under:-

“14.....Some discrepancies in the evidences of the claimant's witnesses might have occurred but the core question before the Tribunal and consequently before the High Court was as to whether the bus in question was involved in the accident or not. For the purpose of determining the said issue, the Court was required to apply the principle underlying burden of proof in terms of the provisions of section 106 of the Indian Evidence Act as to whether a dead body wrapped in a blanket had been found at the spot at such an early hour, which was required to be proved by the respondent Nos. 2 and 3.



15. *In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties.*

16. *The judgment of the High Court to a great extent is based on conjectures and surmises. While holding that the police might have implicated the respondents, no reason has been assigned in support thereof. No material brought on record has been referred to for the said purpose.”*

14. Similar view has been taken by the Hon’ble Supreme Court in case titled as **Anita Sharma and others versus The New India Assurance Co. Ltd. and another** 2021 AIR Supreme Court 302. The relevant portion of the aforesaid judgment is reproduced here as under:-

*“22. Equally, we are concerned over the failure of the High Court to be cognizant of the fact that strict principles of evidence and standards of proof like in a criminal trial are inapplicable in MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence in accident claim cases ought not to be to find fault with non-examination of some best eyewitnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true. A somewhat similar situation arose in **Dulcina Fernandes v. Joaquim Xavier Cruz (2013) 10 SCC 646**, wherein this Court reiterated that:*

"7. It would hardly need a mention that the plea of negligence



on the part of the first respondent who was driving the pickup van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probabilities and certainly not on the basis of proof beyond reasonable doubt. (Bimla Devi v. Himachal RTC [(2009) 13 SCC 530: (2009) 5 SCC (Civ) 189: (2010) 1 SCC (Cri) 1101])"

15. In regard to the contention raised by learned counsel for the appellant-insurance company that the offending vehicle was not involved in the accident on account of non-mentioning of registration number of the offending vehicle at the time of lodging of FIR is concerned, even if, the registration number of an offending vehicle is not mentioned in the FIR, it cannot be held that the offending vehicle was not involved in the accident. FIR is not a substantive piece of evidence. The only purpose of FIR is to set the criminal law in motion. It is followed by detailed investigation of the police. There is nothing wrong if registration number of the offending vehicle and the name of the driver transpires during the course of investigation. Even if, author of the FIR is not examined as a witness, no adverse inference can be drawn against the claimant. A perusal of the FIR would also show that the accident took place on 27.11.2022 and the same clearly gives the date and place where the accident happened. It was also mentioned that unknown tractor came in a high speed and hit the motorcycle of Damandeep Singh (deceased). Even as per the disclosure statement of respondent No.6 (driver of the offending vehicle), the accident had taken place with the tractor and the tractor had struck the motor cycle driven by Damandeep Singh (deceased).

16. A perusal of the testimony of PW2 Hamraj would show that he had stated that eye witness Harshdeep witnessed the accident caused by the driver of a tractor by hooking four trolleys due to which Daman Deep Singh suffered

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grievous and serious injuries and died. The relevant extract of the testimony of said witness is reproduced as under:-

“That on dated 27.11.2022 at about 9:30 A.M. the Deponent along with his father Baljeet Singh son of Sh. Gurdayal Singh resident of village Dhatrath also reached the spot after getting the information about this accident. Harashdeep witnessed this accident that a Tractor by hooking 4 trolley was coming from side of village Kalwa driven by its driver in rash and negligent manner and hit the same into the Motorcyclist namely Daman Deep Singh who was going from Pillukhera to village Kalwa by driving motor cycle No.HR-33B-2708 resultantly Daman Deep Singh along with the motorcycle fell and suffered grievous and serious injuries. At the time the driver of the tractor was on the spot alongwith the tractor and after getting the opportunity ran away alongwith the tractor trolley. The Deponent, Pawan Kundu, Baljeet Singh etc with the help of others arranged private vehicle and brought Damandeep Singh to Civil Hospital, Jind for treatment but the doctor declared Daman Deep Singh dead.”

17. Apart from the testimony of PW2 Hamraj, PW3 Harshdeep who was an eye witness also adduced his evidence by way of an affidavit Ex.PW3/A and as per his testimony, he saw a tractor by hooking four trolleys was coming from the side of village Kalwa driven by its driver in a rash and negligent manner and hit the motorcycle of Daman Deep Singh deceased who was going from Pillukhera to village Kalwa by driving motorcycle No. HR-33B-2708. Damandeep Singh sustained grievous and serious injuries. The relevant extract of the testimony of said witness is reproduced as under:-

“That on dated 27.11.2022 at about 9:30 A.M. the Deponent was going from Pillukhera Mandi to village Kalwa and saw that a Tractor by hooking 4 trolley was coming from side of Village Kalwa driven by its driver in rash and negligent manner and hit the same into the



Motorcyclist namely Daman Deep Singh who was going from Pillukhera to village Kalwa by driving motorcycle No.HR-33B-2708 resultantly Daman Deep Singh alongwith the motorcycle fell and suffered grievous and serious injuries. Baljeet Singh son of Sh. Gurdayal Singh resident of village Dhatrath also reached the spot after getting the information. At that time the driver of the tractor was on the spot alongwith the tractor and after getting the opportunity ran away along with the tractor trolley. The Deponent, Pawan Kundu, Baljeet Singh etc. with the help of others arranged private vehicle and brought Daman Deep to Civil Hospital, Jind for treatment but the doctor declared Daman Deep Singh dead. Police after receipt of information of the death of Daman Deep also reached to Civil Hospital, Jind and recorded the statement of Deponent, Hamraj Singh and Baljeet Singh etc. wherein the deponent and all others stated that they can identify that tractor driver after his coming in front of him and FIR No. 284 dated 27.11.2022 under Sections 279/304-A IPC in Police Station Pillukhera, District Jind has been lodged against the driver of Tractor for driving the Tractor in fast speed, rash and negligent manner and for causing the death of Daman Deep Singh.”

18. Apart from the testimony of PW3, the claimants also examined PW4 Pawan Kundu, who was also an eye witness. He deposed that on 27.11.2022 at about 9:30 A.M., he was present near the premises of Axis Bank of Pillukhera and at that time a blue colour tractor bearing registration No.HR-31-9334 alongwith four trolleys came from the side of village Kalwa driven by its driver in a rash and negligent manner and coming from the wrong side of the road hit the motorcycle No.HR-33B-2708 driven by Daman Deep Singh. He further deposed that the driver of the tractor left the spot alongwith the tractor trolleys.

19. Applying the test of preponderance of probabilities and evidence led by the parties, it is held that the claimants have established that because of the

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rash and negligent driving of driver of the tractor, the tractor struck the motorcycle of Damandeep Singh which led to the death of Damandeep Singh (deceased).

20. Even otherwise also, if the case of the appellant-insurance company was that the tractor was not involved in the accident, the insurance company could have taken step to approach the police authority to investigate the alleged involvement of the offending vehicle, no such exercise was done by the appellant-insurance company.

21. Taking into consideration the abovesaid facts of the case and the entire evidence led by the parties, this Court is of the view that there is no illegality or infirmity in the Award dated 11.11.2024 passed by learned Tribunal, Jind as such, the present appeal is accordingly dismissed.

22. Pending applications, if any, also stand disposed of.

(DEEPINDER SINGH NALWA)
JUDGE

July 07, 2025

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