



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

(103)

**FAO No. 2615 of 1999 (O&M)
Date of Decision:19.09.2025**

GURBACHAN SINGH

... APPELLANT

VERSUS

ABDUL RASHID SHEIKH AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Ms. Gurnam Kaur Turka, Advocate,
for the appellant.

Mr. Rajat Pabbi, Advocate,
for the Respondent No.3-Insurance Company
through VC.

VIRINDER AGGARWAL, J.(Oral)

1. The present appeal has been preferred by the claimant-appellant assailing the award dated 16.01.1999 passed by the learned Motor Accident Claims Tribunal, Ludhiana, whereby the claim petition filed by the appellant for grant of compensation on account of injuries suffered in a motor vehicle accident came to be dismissed.

2. The file of the case is reported to be burnt and only the memo of parties and a copy of the award are available in the paper book in spite of the efforts made to reconstruct the file.

3. Notice of the appeal was again issued to both the parties. Even, both the parties are also unable to place the complete paper book before this court.



4. Learned counsel for the appellant assailed the award on ground that learned Tribunal has erred in law as well as on facts in dismissing the claim petition, despite the fact that the appellant had sustained injuries in a motor vehicle accident. It is urged that once the occurrence of the accident and the injuries suffered therein were duly established, the appellant could not have been denied compensation altogether, and therefore, the impugned award, deserves to be set aside.

5. Per contra, learned counsel for the respondent supported the award of the learned Tribunal, submitting that the claimants had failed to discharge the basic burden of proof. It was further submitted that the impugned award is correct and no interference by this Court is warranted.

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

7. At the threshold, the identity of offending driver and Vehicle was not Proved. The FIR only mentions a truck without a number. The only description of the driver in FIR was that he was a clean shaven man. No evidence was led as to how the claimant ascertained the name of respondent no. 1 namely Abdul Rashid Sheikh as the driver. The ownership of the truck was also not established by claimant. As in this case the testimonies of the witnesses were contradictory. As **PW1** Gurbachan Singh (claimant) admitted in cross-examination that he did not see respondent no. 1 driving the vehicle and had never met him. Whereas, the **PW2** Jaspal Singh stated that he had seen only the glimpse of the driver and that he could not identify the driver and could only say he was a Hindu gentleman. On other hand, **PW5** Sukhdev Singh admitted he was



a servant of the claimant, not a summoned witness and had been brought by the claimant himself and was unable to state how he knew respondent no. 1 was the driver. These testimonies destroy the reliability of the claimant's version. As law is clear and consistent that claimant must establish rash and negligent driving and the identity of the driver at least on the balance of probabilities. In the present appeal, the claimant has failed to discharge this burden. So the learned Tribunal rightly held that the evidence adduced does not prove the involvement of respondent no. 1 or the alleged vehicle in the accident.

8. 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.

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

(VIRINDER AGGARWAL)

JUDGE

19.09.2025

S. Pathania

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