209 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2541-2001 (O&M)
Date of Decision: 17.09.2025

RAM KARAN

....Appellant

Versus

VED PARKASH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Devesh Nehra, Advocate
for the appellant.

Parmod Goyal, J. (Oral)

The present appeal has been preferred by respondent No.1-driver of offending vehicle being aggrieved by Award dated 11.01.2001, passed by learned Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as 'Tribunal').

2. Appellant who was driving the offending vehicle bearing No.DL-1CD-7713 is aggrieved by the award of compensation of Rs.1,20,000/- and also by finding of learned Tribunal holding respondent No.1 liable to pay compensation. Respondent No.1 and respondent No.2A (owner of vehicle) were held liable to pay compensation, on the ground that Jeep was being plied in violation of terms and conditions of policy as it was being used for commercial purposes and being plied for hire and reward.

3. In the present case, injured eye witness himself had appeared as PW3 and on the basis of evidence of PW3, learned Tribunal has concluded

that it was respondent No.1 who was rash and negligent. PW3 had asserted "that driver of Jeep was driving the vehicle at fast speed and when the Jeep reached near Tilyar Lake, Tata 407 came from opposite direction and driver of the Jeep tried to avoid the accident, but in that process the driver of Tata 407 had hit the Jeep, on account of which claimant had fallen from the Jeep and suffered multiple injuries on his person". PW3 claimant has further asserted that at the time of accident, more than 10 persons besides the driver were travelling in the Jeep. He has also asserted that accident had taken place due to rash and negligent driving of Ram Karan respondent No.1-driver of Jeep and he had lodged FIR against respondent No.1 for causing the accident.

4. Based upon above noted assertions made by PW3, learned counsel for appellant has argued that from the evidence of claimant it is clearly made out that it is the case of contributory negligence as both Tata 407 and offending vehicle were being driven in rash and negligent manner. However, on consideration, I do not find any merit in the contentions raised by learned counsel for the appellant. The evidence has to be read in totality and not in parts. PW3-injured/claimant had duly asserted that it was respondent No.1 who was driving the vehicle in a rash and negligent manner. He has duly stated that Jeep was overloaded as it was occupied by driver along with more than 10 persons. He has further asserted that FIR was only lodged against respondent No.1 and not against driver of Tata 407. If these facts as asserted by PW3 are taken into consideration, cumulatively it will lead to only one conclusion that it was respondent No.1 who alone was

rash and negligent in driving the offending vehicle as Jeep was overloaded and he was driving rashly and negligently. Merely because driver of the Jeep had made effort to save his vehicle from accident and it was hit by Tata 407, cannot result in conclusion that Tata 407 was also driving rashly and negligently. The cumulative reading of PW3 in fact goes to show that it is respondent No.1 alone who was stated to be rash and negligent. No fault with the finding of learned Tribunal can be found.

5. Similarly the argument raised on behalf of appellant that since driver of the vehicle i.e. respondent No.1 has been acquitted in the criminal case, therefore, the finding of learned Tribunal is required to be set aside, again is without any merit.

6. The findings in criminal trial has got no bearing on civil matters/Civil Court/Tribunal. The standard of proof in criminal trial and in a motor accident case are totally different from each other. In criminal trial, the standard of proof is to prove the case beyond reasonable doubt, whereas in motor accident claim case the standard of proof is preponderance of probabilities and, therefore, finding of criminal trial cannot be made applicable to the proceedings before Motor Accident Claims Tribunal.

7. In the present case, respondent No.1 had appeared as RW2 and has reiterated the stand taken by him in the written statement. In his written statement respondent No.1 has taken the stand that accident had taken place as cow suddenly tried to cross his Jeep and in order to save cow, accident took place.

8. While appearing as RW1, respondent No.1 had asserted that

accident took place as 2-3 buffaloes had come on the road and in order to save them, he lost control over vehicle and fell into the road side ditches and Jeep had turtled. Therefore, in the present case even respondent No.2 has admitted that Jeep had met with an accident on the date and time as alleged by claimant. The fact that RW2 has neither in his written statement nor while appearing as witness has claimed any hit by Tata 407, therefore, the argument that present is a case of contributory negligence cannot be sustained.

9. The first version of the accident has come in light with lodging of FIR in the present case, whereas a version of respondent had seen light only at the time of filing of written statement. There is no evidence on record that respondent No.1 had ever contested lodging of FIR or had made application to the police authorities regarding his false implication in the FIR. The matter was investigated, challan was filed against respondent No.1 and he was put to trial. Therefore, the version of PW3 which is in line with FIR is more reliable than the version as given by respondent No.1 while appearing as RW2. There is no merit in the contention raised by learned counsel for appellant as regards to contributory negligence or that respondent No.1 was not at all involved causing the accident. The finding of learned Tribunal is accordingly upheld.

10. Faced with this, learned counsel for appellant argued that insurance company is liable to indemnify respondents No.1 and 2A as vehicle was fully insured. However, perusal of impugned award goes to show that insurance company had specifically taken a stand that respondent

No.1 was driving Jeep in violation of conditions of insurance policy and in view of the violation, insurance company is not liable to indemnify respondent No.2A. In order to prove that respondents No.1 and 2A had violated the conditions of insurance company, insurance company had examined an official from insurance company as RW1, who had clearly stated that Jeep was being plied for commercial purposes and not being used for personal use for which it was insured. It was asserted on behalf of insurance company that Jeep was being used for transporting passengers and reference has been made to the evidence of petitioner that he had also paid Rs.5/- as fare and has taken Jeep on hire. Perusal of evidence of PW3-claimant goes to show that he had in clear terms had stated that he was travelling in Jeep as a passenger on payment of Rs.5/-.

11. The assertions made by PW3 are being challenged by learned counsel for the appellant, on the ground that the facts being stated by petitioner as PW3 are not pleaded in the claim petition and, therefore, these facts cannot be taken to conclude that Jeep was being plied in violation of insurance policy. On consideration, I do not find any merit in the contentions raised by learned counsel for the appellant. Admittedly, in the claim petition, petitioner has clearly stated that he was travelling in Jeep. He has also stated that while travelling in the Jeep, the same was being driven by respondent No.1 in a rash and negligent manner and on account of his rash driving, he had fallen from the Jeep and suffered injuries. Statement that he had paid Rs.5/- as fare in his examination before the Court is only supplementary in nature and explanatory to the fact that he was travelling in the Jeep.

Petitioner has clearly stated that he had started his journey in the Jeep after boarding it from bus stand.

12. It is pertinent to note that respondent No.1 in his written statement as well as while appearing in the Court has in fact denied in totality that claimant was travelling in his Jeep. This has been proved wrong by the evidence of claimant, who has successfully proved that while he was travelling in the Jeep after paying Rs.5/- he had suffered injuries.

13. Therefore, merely because factum of amount paid as fare was not mentioned in claim petition, it cannot lead to the conclusion that claimant was not travelling for consideration. Therefore, once it is proved that Jeep was being used for hire purposes, whereas it was insured with respondent No.3 for personal use, it is clear that Jeep was being driven in violation of insurance policy and, therefore, insurance company was not liable to indemnify respondent No.2A or present appellant who was driver of the Jeep.

14. The appeal is without any merit and is accordingly dismissed.

(PARMOD GOYAL)
JUDGE

17.09.2025
chiranjeev

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No