



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

FAO-2804-2004

Reserved on: 23.09.2025

Pronounced on: 30.09.2025

GAGAN KUMAR

....Appellant

Versus

JASVINDER SINGH AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present : Mr. B.S. Mamli, Advocate
for the appellant.

Mr. Om Pal Sharma Advocate and
Mr. Anmol Sharma Vashisht, Advocate
for respondent No.2.

Parmod Goyal, J.

Claimant/appellant is aggrieved by dismissal of his claim petition vide award dated 06.04.2004, passed by learned Motor Accident Claims Tribunal, Jagadhri (hereinafter referred as 'Tribunal'). The injured claimant had preferred a claim petition under Section 163A of Motor Vehicle Act, seeking compensation of Rs.4,50,000/- on account of injuries and permanent disability suffered by him in the accident dated 01.11.2001.

2. Claimant had asserted that on 01.11.2001 at about 5:00 PM he was unloading marble stone slabs from the Truck bearing No.HR-58-0795 and while unloading the same the stone slab had fallen on him, due to which his right leg got fractured and he became permanently disabled and accordingly, had claimed compensation of Rs.4,50,000/-. Respondent No.1 took the plea that no accident took place with vehicle No.HR-58-0795. It was asserted that claimant had suffered injuries due to negligence and



carelessness on his part while he was unloading the marble slabs from the truck. Respondent No.2 also took the same stand.

3. In order to prove his case, claimant had appeared as PW4 and reiterated assertions made in his claim petition. That on 01.11.2001 at about 5:00 PM when he was unloading marble slabs from the Truck bearing No.HR-58-0795 he got injured on account of fall of marble slabs. He claimed that he was engaged by owner of shop to unload the marble and had not claimed any compensation under Workmen's Compensation Act, 1923.

4. The learned Tribunal after considering the facts stated by PW4 i.e. claimant and also considering cases referred by both the sides had concluded that since there was no violation of Motor Vehicle Rules either by owner of truck or its driver while unloading the marble slabs, therefore, no liability can be fixed upon owner and driver of truck and petition under Section 163A is not maintainable.

5. Learned counsel for appellant has placed reliance upon the following judgments, in support of his case i.e. **Kalim Khan and Others v. Fimidabee and Others, 2018 (3) RCR (Civil) 457, Gujarat State Road Transport Corporation v. Nanabai WD/O Vishrambhai Bhanderi, 2019 (3) ACC 68, Medikonda Narasamma and others v. Shaik Basheer Ahmed and others, 2001 AIR (Andhra Pradesh) 114, Smt. Rita Devi v. New India Assurance Co. Ltd, 2000 (2) ACJ 801, Shivaji Dayanu Patil v. Smt. Vatschala Uttam More, 1992 (75) Comp Cas 348 and Babu v. Ramesan, 1996 (1) ACC 24.**

6. In **Kalim Khan and Others v. Fimidabee and Others (supra)** Hon'ble Supreme court had held :

“.....Heavy onus is cast on the driver to avoid negligence while the vehicle is in use. If the term 'use' in



its conceptual sweep engulfs no motion or no movement or stationariness, then by logical corollary it is made essential that the driver or for that matter any agent of the owner should be careful and nonnegligent. Negligence in driving is regarded as a fact that the vehicle is in motion. But the definition of 'use' having been expanded in its broader canvas, it has to clothe in its sweep other categories of negligence. To elaborate, when a vehicle remains static, it cannot constitute that the driver is negligent because of his rash and negligent driving. On the contrary, it has to embody some other different types of negligence. Of course that would depend upon the facts and circumstances of each case. The Division Bench of the High Court went on to say that the apex Court in Patil (supra) was dealing with the negligence so far as it was concerned with Section 92 of the Act, but as the language of Section 92A and Section 110 of the old Act used the same phraseology and there is absence of any etymological distinction, the same 22 meaning should be given to the expression under Section 110 of the old Act. The appellate Bench held that there was causal relationship with the accident which had resulted in the death of the claimant.

23. We entirely agree with the aforesaid analysis, for it is in accord with the view of the decisions of this Court.

24. It may be reiterated here that the causal relationship should exist between violation and the accident caused. There has to be some act done by the person concerned in causing the accident. The commission or omission must have some nexus with the accident. The word 'use' as has been explained by the authorities of this Court need not have an intimate and direct nexus with the accident. The Court has to bear in mind that the phraseology used by the legislature is "accident arising out of use of the motor vehicle". The



scope has been enlarged by such use of the phraseology and this Court taking note of the beneficial provision has placed a wider meaning on the same. There has to be some causal relation or the incident must relate to it. It should not be totally unconnected. Therefore, in each case what is required to be seen is whether there has been some causal relation or the event is related to the act.

Again in **Gujarat State Road Transport Corporation v. Nanabai WD/O Vishrambhai Bhanderi** (supra) it was held that :

Because the concept of movement being not intrinsically or inherently connected with the use and the term 'use' having been connotatively expanded, there can be no doubt that the same can also be extended to the arena/sphere of a claim advanced under [Section 110](#) of the 1939 Act. Heavy onus is cast on the driver to avoid incident while the vehicle is in use. If the term 'use' in its conceptual sweep engulfs no motion or no movement or stationariness, then by logical corollary it is made essential that the driver or for that matter any agent of the owner should be careful and non-negligent. The definition of 'use' having been expanded in its broader canvas, it has to clothe in its sweep other categories of negligence. It is limpid that the expression 'use of the vehicle' under certain circumstances can be attracted when the vehicle is stationary or static.

7. Therefore, term 'use' would include vehicle in motion or in stationery position. There has to be some causal relation or the incident must relate to it. It should not be totally unconnected. Some causal relation or the incident must relate to it. It should not be totally unconnected. Facts and circumstances of case has to be seen whether the injuries have any connection with the use of vehicle. In present case claimant was unloading marble slab and while unloading marble



fell upon him and he suffered injuries. There is no evidence that truck was not parked properly or that on account of some act of commission or omission on the part of truck or its driver accident had taken place. Petitioner was not even employed by truck driver or owner of truck. Claimant was employed by owner of shop while truck was to unload marble. It is also not clear as to whether marble slab had fallen on petitioner when he was in truck or out of truck. Initial onus to show that accident had occurred due to use of truck was upon claimant. However, in present case no direct and indirect use of offending vehicle in falling of marble has been shown. Claimant- appellant has failed to discharge onus upon him. I do not find any error with the conclusions drawn by learned Tribunal. There is no defect in the findings recorded by learned Tribunal. The appeal is without any merit and hence, dismissed.

30.09.2025

chiranjeev

**(PARMOD GOYAL)
JUDGE**

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