



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

FAO-339-2006
Reserved on 11.07.2025
Date of decision: 21.07.2025

Smt. Sonia Rani and Another ...Appellants

Versus

Veena Mahindroo and Another ...Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Anil Ghanghas, Advocate for
Mr. Sunil Panwar, Advocate for the appellants.

Mr. Sanjiv Pabbi, Advocate
for respondent No.2-Insurance Company.

SUDEEPTI SHARMA, J.

1. The present appeal has been preferred against the award dated 10.08.2005 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act') by the learned Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal') vide which the claim petition filed by the appellants/claimants, who are the legal heirs of the deceased-Mangat Ram, was dismissed.

FACTS NOT IN DISPUTE

2. On the night intervening 8/9.11.2003 Mangat Ram was going from his house at Joggiwara to Manmohan Nagar, Ambala City on foot. At about 12.30 A.M. he was crossing G.T. road when in the meantime a Maruti Zen Car No. PB-11W-7701 came from Delhi side. The driver of the car could not control and hit against Mangat Ram as a result of which he



sustained multiple injuries and died at the spot. The matter was reported to the police whereupon FIR was registered regarding the accident. It is further averred that Mangat Ram was 32 years of age and that he used to work as labourer and used to earn more than Rs.3000/- per month. However, it has been stated that the income of the deceased be considered as Rs.40,000/- per annum as the petition has been filed under Section 163-A of the Act. Claimant No.1 is widow of the deceased whereas claimant No.2 is father of the deceased. Both of them were dependent upon the income of the deceased. Rs. 15.000/- were spent on transportation of dead body, funeral and last rights of the deceased. Hence, a sum of Rs.10 lakhs has been claimed as compensation.

3. Upon notice of the claim petition, respondents appeared and filed written reply denying the factum of accident/compensation.

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

1. *Whether the death of Mangat Ram took place in an accident involving Maruti Zen Car No.PB-11W-7701 ? OPP*

2. *Whether the claimants are the only legal heirs of deceased and entitled to compensation. If so, how much and from whom? OPP*

3. *Whether respondent No.1 was not holding a valid driving licence at the time of accident. If so, its effect? OPR-2*

4. *Relief.*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim-petition. Hence, the



claimants/appellants filed the present appeal for grant of compensation.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

6. Learned counsel for the appellants-claimants contend that the claim petition is dismissed only on the ground that there was delay in lodging of the FIR. Further, the offending vehicle was not involved in the accident whereas as per the statement of PW-1, the vehicle was released on superdari and number plate of the vehicle was taken into possession by the police from the spot of the accident. He further contends that Section 163-A of Motor Vehicles Act, 1988 is now substituted by Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) and compensation should be enhanced as per the substituted statutory provision i.e. Section 164 of the Act.

He further contend that the present case is covered by the judgment rendered by this Court in **FAO No.4301 of 2006, titled as "Akaljit Kaur and Others Vs. Parveen Kumar and Others."** wherein the claim under Section 163-A of the Motor Vehicles Act, 1988 was converted to Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) by relying upon the judgment of Hon'ble Supreme Court in the case of **Ram Murti and others Vs. Punjab State Electricity Board [2022(4) TAC 738]** wherein it was held that Section 164 of the Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) provides for payment of compensation in case of death in the amount of Rs.5 lakh and in the case of grievous hurt of Rs.2.5 lakh.

7. Per contra, learned counsel for the respondent-Insurance Company vehemently argued on the lines of the award and prays for



dismissal of the present appeal.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. Relevant portion of the award is reproduced as under:-

8. *"In order to prove this issue, the claimants examined Deep Chand Saini son of Sh. Jagir Singh, who appeared as PW-3 and deposed that he is running a tea shop in front of Ram Mandir Ambala City and that he was going to Janta Sweets for taking Ladoos about a year back and that a person was crossing the road when a car of grey colour came from Delhi side and after hitting that person went towards Patiala. He further deposed that after purchasing Ladoos from Janta Sweets he went to Police Post where he told Sentry" about the accident and returned to his shop. He further deposed that within 5-7 minutes of the accident the police reached the spot. He further deposed that number plate was lying at the spot which was taken into possession by the police.*

In the cross examination, he clarified that the accident had taken place in his presence between 8.30 and 9.30 P.M. when he was going to take 'Ladoos' from Janta Sweets. He specifically deposed that he had not gone to any temple or Gurudwara on that night. He further deposed that he had not stated before the police that the accident had taken place at 12.30 A.M. when he was going towards G.T. Road after attending 'Kirtan' in Gurudawara Manji Sahib, Ambala City. He was also confronted with the relevant portion of his statement Ex.RA wherein it is so recorded. He has also admitted that the police officials are known to him as they usually come to his shop



to take tea.

9. *Sonia Rani PW2 has also admitted in cross examination that Joginder Lal, her father-in-law was employed in the police department and that however, he retired from his department about 5-6 years ago. She also deposed that her husband Mangat Ram and Deep Chand were known to each other. She also deposed that her husband used to go to Ram Mandir in Joggiwara Mohalla and that he was not going to any Gurudawara.*

10. *On the other hand, no evidence has been adduced by the respondents. Even neither owner nor driver of the car appeared in the witness box to depose regarding the assertion that the car was not involved in this case.*

11. *Claimants have filed this petition with the averments that Mangat Ram (deceased) sustained injuries on account of accident involving Car No. PB-11W-7701. Hence, it was for the claimants to prove that the said car was involved in the accident. In order to prove the said fact, the only witness examined by the claimants is Deep Chand Saini PW-3 who allegedly recorded First Information Report Ex.P1 regarding the accident. However there are material discrepancies in version of Deep Chand Saini given in the FIR Ex.P1, his deposition when he appeared before this Tribunal as PW-3 and the deposition of Sonia Rani widow of the deceased as PW-2. In Ex.P-1, PW-3 Deep Chand Saini has stated that the accident had taken place at about 12.30 A.M. and that he was going towards G.T. Road after attending Kirtan in the Gurudawara at Ambala City. However, when he appeared in the witness box before this tribunal, he deposed that the accident had taken place between 8.30 and 9.30*



P.M. while he was going to take Ladoos from Janta Sweets. He also deposed that within 5-7 minutes the police had reached the place of occurrence. He also deposed that Mangat Ram was not known to him. However, Smt. Sonia Rani PW-2 deposed that her husband Mangat Ram and Deep Chand were known to each other. She further deposed that her husband used to go for worship in a Mandir and that he had not gone in a Gurudawara or Masjid.

12. Car bearing No. PB-11W-7701 is being involved in this accident merely on the ground that some number plate was found on the place of accident on which the said number was written. However, recovery memo vide which the number plate was taken into possession by the police has not been produced. Police official, who had taken the said number plate in police possession from the place of accident, has also not been examined. There is also no other evidence regarding involvement of the said car in the accident except the number plate on the basis of which FIR Ex-P1 was lodged involving the said car at about 1.00 P.M. on 9.11.2003 i.e. after inordinate delay of more than twelve hours whereas according to Deep Chand Saint, PW-5, the police reached the place of accident just after five or seven minutes of the accident, which according to him, had taken place at about 8.30 or 9.30 P.M. on 8.11.2003.

13. Hence, in view of these facts non appearance of driver or owner of Car No. PB-11W-7701 not going to help the claimants in any way as it seems that later on they colluded with the claimants as the car was insured just to help them to get compensation from the Insurance company. As there cannot be any other reason as to why respondent No. 1 did not appear in the witness box to depose that the



car was not involved in the accident. He also did not examine the driver who was driving the car on the date of alleged accident. Further, it is not explainable that when according to Smt. Sonia Rani PW-2 her husband Mangat Ram and Deep Chand Saini were known to each other and of Deep Chand PW-3 was present at the time of accident then as to why he could not identify that the person injured in the accident was none else than Mangat Ram.

14. *Hence, in view of these facts merely on the basis of a number plate having been allegedly found on the place of accident bearing No. PB-11W-7701 it cannot be held that car bearing No. PB-11W-7701 was involved in the accident. Even Deep Chand Saini PW-3 deposed that he had not seen the number of the car at the time of accident. He has also simply deposed that number plate of a car was lying on the spot which was taken into possession by the police. He even did not depose as to what number was written on the said number plate. Hence, no substantive evidence has been adduced by the claimants in order to prove that the number plate, which was allegedly taken into possession from the place of accident, was bearing No. PB-11W-7701. The only fact which has been proved by the claimant is that the said car was taken into possession by the police and the same released on superdars to respondent No.1 as deposed by Shailey Sharma. Additional Ahlmad from the court of Chief Judicial Magistrate, Ambala.*

15. *As a sequel to my above discussion, I am of the view that the claimants have utterly failed to prove that the accident was caused due to involvement of Car No. PB-11W-7701 causing injuries to Mangat Ram resulting into his death. Rather it seems that the some*



unknown vehicle caused the accident. Hence, this issue stands accordingly decided against claimants and in favour of the respondents.”

10. A perusal of the impugned award reveals that the learned Tribunal has erred in dismissing the claim petition on the erroneous ground that the claimants failed to prove the involvement of the offending vehicle bearing registration No.*PB-11W-7701* in the accident. The Tribunal further proceeded on an unfounded assumption of collusion between the claimants and respondent No.1, without any cogent evidence to substantiate such assertion.

11. At the very outset, it is pertinent to note that the FIR (Ex. P1), which was lodged shortly after the incident, specifically mentions the registration number of the offending vehicle. The same number plate, bearing registration No. *PB-11W-7701*, was recovered from the scene of the accident and later taken into possession by the police. This fact stands corroborated by PW-3, Deep Chand Saini, the eyewitness, who categorically deposed that after the accident, the number plate of the offending car was lying at the spot and was seized by the police.

12. The testimony of PW-3 Deep Chand Saini is of crucial evidentiary value. He narrated a consistent and credible account of the sequence of events leading to the accident, stating that while a person was crossing the road near Janta Sweets, a grey-coloured car came from the Delhi side, hit the pedestrian, and sped towards Patiala. PW-3 Deep Chand Saini also stated that police reached the spot within 5–7 minutes, and he thereafter went to the police post with police party to inform them about the



accident. Despite a detailed and searching cross-examination, his testimony remained unshaken on material aspects.

13. The learned Tribunal, however, chose to disbelieve this testimony merely on the ground that the witness purportedly knew the father-in-law of the deceased, who was once employed in the police department. This reasoning is legally untenable. It is trite law that the testimony of an eyewitness cannot be discarded solely on the basis of some acquaintance with the victim or their family, unless there is tangible evidence proving bias or mala fides. Such connections cannot form a basis for discrediting the deposition. In fact, PW-3 categorically denied knowing the deceased personally. Further, the discrepancies pointed out by the Tribunal such as, the variation in the time of the accident or reference to religious places are minor and do not affect the core narration regarding the occurrence of the accident and the involvement of the offending vehicle bearing registration No.PB-11W-7701.

14. Moreover, it is well established that proceedings under the Motor Vehicles Act are to be decided not on the strict rigours of criminal jurisprudence, but on the touchstone of preponderance of probabilities. This principle has been reiterated by the Hon'ble Supreme Court in ***Parmeshwari v. Amir Chand & Ors., (2011) 11 SCC 635***, where the Court observed that procedural technicalities must give way to the overarching objective of the Motor Vehicles Act, which is to ensure just and fair compensation to the victims of motor accidents. The relevant observation reads as follows:

“12. We are constrained to repeat our observation that the total approach of the High Court, unfortunately, was not sensitised enough to appreciate the plight of the victim. The other so-



*called reason in the High Court's order was that as the claim petition was filed after four months of the accident, the same is "a device to grab money from the insurance company". This finding in the absence of any material is certainly perverse. The High Court appears to be not cognizant of the principle that in a road accident claim, the strict principles of proof in a criminal case are not attracted. The following observations of this Court in *Bimla Devi and others v. Himachal Road Transport Corporation and others*, 2009(3) RCR (Civil) 805: 2009(4) R.A.J. 408: 2009(2) AICJ 167: (2009)13 SCC 530 are very pertinent: "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."*

15. Insofar as the Reliance of Ld. Tribunal on the delay in lodging the FIR is concerned, the same is also misplaced. The Hon'ble Supreme Court in ***Ravi v. Badrinarayan & Ors., (2011) 4 SCC 69***, held that mere delay in lodging the FIR is not fatal to a claim under the Motor Vehicles Act, particularly when the occurrence of the accident and the involvement of the offending vehicle are otherwise established. The relevant extract of the same is reproduced as under:-

"20. It is well-settled that delay in lodging FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the Police Station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the Police Station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the Police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so; the contents of the FIR should also be scrutinised more carefully. If court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then,



even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground.

21. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons.”

16. In the present case, PW-3 Deep Chand Saini has clearly explained that the FIR was recorded after the body of the deceased was taken away from the place of accident, thus offering a satisfactory explanation for any ostensible delay.

17. Furthermore, the reasoning of the Ld. Tribunal that PW-3 did not identify the number of the car at the time of the accident is immaterial, as the number plate was found at the spot and taken into possession by the police. The vehicle in question, bearing the same registration number, was subsequently taken into custody during investigation and released on superdari to its owner on 22.11.2003. This fact was affirmed by PW-1 Shailey Sharma, Additional Ahlmad from the Court of the Chief Judicial Magistrate, Ambala, thereby affirming the connection between the accident and the vehicle.

18. The conclusion of Ld Tribunal qua collusion between the claimants and the respondents is purely speculative and unsupported by any



credible evidence. It is settled law that the burden to prove allegations of collusion lies squarely on the insurer. Mere suspicion or conjecture cannot displace clear and consistent testimony supported by documentary evidence. In ***Geeta Dubey v. United India Insurance Co., 2024 INSC 998***, the Hon'ble Supreme Court reaffirmed that allegations of collusion must be pleaded with particularity and proven through cogent evidence. The relevant portion of the judgment is reproduced as under:-

“22. Thirdly, the claimants having discharged the initial onus, if the insurance company had a case that there was collusion between the driver/owner of the truck and the claimants, it ought to discharge that burden. It is candidly admitted by the witness Raj Kumar Kachhwah that they had taken no steps in this regard.

23. As held in Sajeena Ikhbal (supra) and Bimla Devi (supra), we are convinced that on the principle of preponderance of probability, the claimants have established the involvement of vehicle bearing registration no. MP-19-HA-1197. The insurance company having set up a specific plea of collusion has not established the same. As was held in Bimla Devi (supra), here too, we feel that there was no reason for the police to falsely implicate the vehicle concerned in the matter and launch prosecution against the driver. If the insurance company had suspected collusion, they would have taken steps to file appropriate complaints including moving the higher police authorities or the court to order an investigation into the alleged wrongful involvement of the vehicle. There is no case for the insurance company that the police officer also colluded. The investigation by the police has resulted in charge-sheet being filed.”

19. In the present case, the insurance company led no evidence whatsoever to substantiate its plea of collusion. Therefore, the findings of the Tribunal on this aspect are contrary to law and deserve to be set aside.

20. In view of the foregoing analysis, it is evident that the claimants have successfully discharged the burden of proof, establishing on the preponderance of probabilities that the accident in question was caused by



the offending vehicle bearing No. PB-11W-7701. The testimony of the eyewitness is reliable and consistent, and the recovery of the number plate, subsequent seizure and release of the offending vehicle on superdari and registration of FIR all point unerringly to the involvement of the offending vehicle.

21. Accordingly, the findings of the learned Tribunal are legally unsustainable in the eyes of law and are liable to be set aside.

22. Since Section 163-A of Motor Vehicles Act, 1988 is now substituted by Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022), compensation is liable to be enhanced as per the substituted statutory provision ie. Section 164 of the Motor Vehicles Act, 1988, therefore, the appellants/claimants herein are entitled to be granted the benefit of beneficial provision enacted by the Parliament under Chapter 11 of which Section 164 provides for payment of compensation in case of death in the amount of Rs.5 lakh and in case of grievous hurt of Rs.2.5 lakh.

23. Further, this Court in FAO No.4301 of 2006, titled as "**Akaljit Kaur and Others Vs. Parveen Kumar and Others**" held as under:-

"11. Hon'ble Supreme Court in the case of Ram Murti and others Vs. Punjab State Electricity Board [2022(4) TAC 738] held that the appellants therein to be granted the benefit of beneficial provision enacted by the Parliament under Chapter 11 of which Section 164 provides for payment of compensation in the case of death in the amount of Rs.5 lakhs and in the case grievous hurt of Rs.2.5 lakhs.

12. This Court in FAO-195-2006 titled as Mamta and Others Vs. Happy and Others, decided on 29.05.2024, held that since Motor Vehicle statute is a beneficial legislation, the Judge should not go into the technicalities of the provisions, under which the application or petition is moved but should apply his judicial mind, as these are only the irregularities and not illegalities which cannot be cured. It has been observed by the Hon'ble Supreme Court that the loss caused to the claimants or



the relationship or to the victim of the limb cannot be compensated. Still the Court should make every effort by exercising its discretion empathetically. Further, Justice should actually be shown to be delivered by application of judicial mind with intelligence, prudence, care and caution and by showing empathy. The Court decision should be such that they strengthen the trust and confidence of public and litigants in judicial system and judiciary."

24. In view of the above, the present appeal is **allowed**.

Accordingly, the award dated 10.08.2005 is set aside and appellants/claimants are held entitled to compensation to the tune of Rs.5 lacs.

25. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma*** 2019 ACJ 3176 and ***R.Valli and Others VS. Tamil Nadu State Transport Corporation*** (2022) 5 Supreme Court Cases 107, the appellants-claimants are granted the interest @ 9% per annum on the amount of compensation from the date of filing of claim petition till the date of its realization.

26. Now coming to the findings on issue No.3. No findings were given by Ld. Tribunal on this issue. The issue No.3 was framed as under:-

Issue No.3. "Whether respondent No.1 was not holding a valid driving licence at the time of accident. If so, its effect? OPR-3

27. Consequently, the matter is remanded to the Ld. Tribunal to decide issues No.3 afresh, from the date of receipt of copy of this judgment preferably within a period of three months on day to day basis. The parties are directed to appear before the Tribunal on 30.07.2025.

28. Upon deciding of issues No.3, the respondent who is held liable to pay the compensation, shall deposit the amount calculated by this Court



with learned Tribunal within 45 days from the date of decision by the Ld. Tribunal. The learned Tribunal shall disburse the said amount of compensation in the account of appellants/claimants. The appellants/claimants are directed to furnish their bank account details to the learned Tribunal.

29. The Insurance Company is hereby directed to disburse the current scheduled fee to Mr. Sanjiv Pabbi, Advocate, for Insurance Company respondent No.2, within a period of 20 days from the date of receipt of the copy of this judgment, in view of the order dated 18.07.2024 passed in FAO No.1682 of 2007, by this Court forthwith.

30. Registry is directed to send a copy of this judgment to the Ld. Tribunal along with original record, if received, in this Court forthwith.

31. Pending application(s), if any, stand disposed of.

21.07.2025

Yogesh

**(SUDEEPTI SHARMA)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**