



FAO-753-2007 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-753-2007 (O&M)

Date of Decision: May 08, 2025

National Insurance Co. Ltd.

.....Appellant

Vs.

Nanci and others

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Maninder Arora, Advocate with Mr Harmeet Singh, Advocate
for the appellant.

Mr. Parth Sharma with Mr. Gaurav Arora, Advocates,
for respondent Nos. 1 to 3.

Mr. Virender Kumar, Advocate, for respondent No. 4

SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Insurance Company against the award dated 02.11.2006 filed under Section 166 of the Motor Vehicles Act, 1988, passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') whereby the claimants were granted compensation to the tune of Rs.4,52,992/- along with interest @ 7.5% per annum.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 25.07.2004, Tilak Raj along with his brother Ramesh Kumar was going to Model Town, Karnal on motorcycle bearing registration No. HR-5M/3400, being driven by Tilak Raj at a moderate speed. However, another motorcycle bearing registration No. HR-5D/6789 being driven by Nand Lal-respondent No. 4 in a rash and negligent manner and at a very high speed, came from the opposite side and hit against the motorcycle of

**FAO-753-2007 (O&M)**

Tilak Raj by coming on wrong side. Due to the impact, the motorcycle was dragged to some distance and Tilak Raj received multiple and grievous injuries. He was shifted to Civil Hospital, Karnal and thereafter to Apollo Hospital, Delhi where he succumbed to his injuries on 29.07.2004.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES.

3. Learned counsel for the appellant-Insurance Company vehemently argues that the vehicle bearing registration No. HR-5D/6789, as subsequently identified during the police investigation, has erroneously been treated as the offending vehicle. He further contends that the vehicle which actually caused the accident is the one originally named in the FIR i.e vehicle bearing registration No. HR-05/6956. Therefore, the compensation has wrongly been granted to the claimants and the award is liable to be set aside. He further contends that otherwise also the compensation awarded to the claimants is on higher side. Therefore, he prays that the present appeal be allowed and the appellant-Insurance Company be absolved from the liability to pay the compensation to the claimants.

4. Per contra, learned counsel for the claimants submits that the claimants have filed FAO No. 3242-2007 for enhancement of the compensation amount and the same is listed today itself. Therefore, he prays for dismissal of the appeal filed by the Insurance Company.

5. Learned counsel for respondent No. 4-driver of the offending vehicle argues that the learned Tribunal has erred in law in granting compensation to the claimants and prays for dismissal of the appeal.

6. Before proceeding further, it is necessary to reproduce the relevant portion of the award of the Tribunal:-

**FAO-753-2007 (O&M)**

“ISSUE NO.1.

7. PW1 Ramesh Kumar is the real brother of Tilak Raj deceased and at the time of accident he was the pillion rider of motorcycle No.HR-5M-3400 which was driven by Tilak Raj.

PW1 Ramesh Kumar has tendered his affidavit Ex.P1 as part of his statement wherein he deposed that on 25.7.2004 at about 3.30 p.m., he alongwith Tilak Raj was going from the side of Parnami Mandir, Model Town, Karnal on motorcycle No.HR-5M-3400 which was driven by Tilak Raj at a moderate speed thereby following traffic rules. However, respondent No.1 Nand Lal had come from the opposite side on motorcycle No.HR-5D-6789, which was driven by him at a very high speed in a rash and negligent manner. Tilak Raj took his motorcycle in the katcha side of the road in order to avoid accident but still the motorcycle of Nand Lal struck against him. Due to impact, Tilak Raj received multiple, grievous and serious injuries on his person. He was shifted to Miglani Hospital, Karnal and thereafter to Apollo Hospital, Delhi where he succumbed to the injuries on 29.7.2004. PW1 also stated that he had got the FIR (Ex.R2) lodged with the police, which had come to the Miglani Hospital, Karnal.

8. Petitioner No. 3 Seema Jagia is examined as PW3 and she had tendered her affidavit Ex.P5 wherein she deposed that her husband had met with an accident on 25.7.2004 in Model Town, Karnal. He was taken to Miglani Nursing Home, Karnal. His condition was serious, therefore, he was shifted to Apollo Hospital, Delhi but he succumbed to the injuries on 29.7.2004. The post mortem on his dead body was also conducted at Delhi.

**FAO-753-2007 (O&M)**

9. PW4 Subhash Chander has tendered his affidavit Ex.P6 as part of his statement wherein he deposed that on 25.7.2004 at about 3.30 p.m he was going to the house of Nanha Ram bearing No.136-R, Model Town, Karnal when he saw Tilak Raj was going on motorcycle No.HR-05M-3400 and his brother Ramesh Kumar was the pillion rider. PW4 stated that Tilak Raj was driving the motorcycle at a moderate speed. However, respondent No.1 Nand Lal came from the opposite side on his motorcycle No.HR-05D-6789, which was driven by him at a very high speed in a rash and negligent manner. Nand Lal hit the motorcycle of Tilak Raj by going on the wrong side of the road. The motorcycle of Tilak Raj was dragged to some distance. Tilak Raj received multiple, grievous and serious injuries on his person. He was taken to Miglani Hospital, Karnal.

10. The petitioners have tendered the statement of Manpreet Ex.P7 under Section 161 Cr.P.C., the site plan Ex.P8 and the mechanical report Ex.P9 of motorcycle No.HR-05M-3400 and HR-05D-6789 pertaining to the criminal case bearing FIR No.263 dated 25.7.2004, Police Station Civil Lines, Karnal.

The respondents have tendered the copy of the challan Ex.R1, FIR Ex.R2, remand paper Ex.R3, statement of Ramesh under Section 161 Cr.P.C., pertaining to the criminal case bearing FIR No:263 dated 25.7.2004.

11. Sh.K.D.Goel, learned counsel for respondent No.3 has drawn my attention on the FIR Ex.R2 and the remand paper Ex.R3 wherein the registration number of the motorcycle involved in the accident are given to HR-05M-3400 and HR-05-6956. The learned counsel

**FAO-753-2007 (O&M)**

contended that lateron, the motorcycle number was changed from HR-05-6956 to HR-05-6789 and this accordingly shows that this was done to falsely implicate motorcycle No.HR-05D-6789, which is owned by respondent No.2 and insured with respondent No.3 in order to grab compensation.

12. I am not convinced with the arguments advanced by learned counsel for respondent No.3. There is no doubt that when the FIR was lodged, the registration number of the offending motorcycle was given to be HR-05-6956 and the same is duly reflected in FIR Ex.R2 and remand paper Ex.R3 as well as statement of Ramesh Kumar Ex.R4. However, during further investigation of the case by the police, it was found that registration number of the offending motorcycle was actually HR-05D-6789. The statement of Manpreet recorded under Section 161 Cr.P.C is Ex.P7. Moreover, it is also pointed out that PW5 Surinder Kumar, ASI was the Investigating Officer of the criminal case titled State Vs. Nand Lal bearing FIR No.263 dated 25.7.2004, under Section 279, 337 IPC, Police Station Civil Lines, Karnal. PW5 stated that Tilak Raj had succumbed to the injuries and accordingly, it was lateron converted to Section 304-A of the Indian Penal Code. PW5 stated that in the investigation, it was found that the number of the offending motorcycle was HR-05D-6789 and also that the accident had taken place due to rash and negligent driving on part of Nand Lal, who was driving the offending motorcycle No. HR-05D-6789. Moreover, PW5 had also got motorcycle No.HR-05M-3400 of the Tilak Raj deceased as well as the offending motorcycle of Nand Lal bearing No.HR-05D-6789 mechanically examined and the report

**FAO-753-2007 (O&M)**

is Ex.P9. PW5 also stated that he had recorded the statement of Manpreet Ex.PW7 during the course of Investigation. He further stated that the supplementary statement of Ramesh Kumar was also recorded regarding the involvement of motorcycle No.HR-05D-6789. It is also pointed out that in the course of arguments, it was admitted that respondent No.1 Nand Lal is facing trial regarding the accident in question. However, he could dare to appear in the witness box. Hence, adverse inference is drawn against him. Moreover, it is pointed out that initially the number of the offending motorcycle was given to be HR-05-6956 but lateron, on further investigation, it revealed that the number of the motorcycle involved was HR-05D-6789 and also the fact that the accident had taken place due to rash and negligent driving of Nand Lal, who was driving the motorcycle No.HR-05D-6789. Hence, challan (Ex.R1) was filed against him. However, in the challan Ex.R1, the initial version taken in FIR Ex.R2 was mentioned. The respondents have tried to take benefit of the fact that initially in the FIR, the registration number of the motorcycle involved was given to be HR-05-6956. However, the statement of PWS ASI Surinder Kumar and also the other evidence brought on record proves that the registration number of the motorcycle was verified to be HR-05D-6789. Moreover, It is pointed out that respondent no.1 Nand Lal is facing trial in the criminal case. However, he had not de any complaint or representation to the higher authorities of the court concerned regarding his false Implication and also thereby taking a stand that motorcycle No.HR-05D-6789 has been falsely implicating. Moreover, as mentioned above, respondent No.1 Nand Lal has even

**FAO-753-2007 (O&M)**

not dared to appear in the witness box. In view of the matter, the arguments advanced by learned counsel for respondent No.3 is devoid of any force.

13. As per my discussion above, the evidence brought on record by the petitioners, are sufficient to draw Inference that the accident had taken place due to rash and negligent driving of respondent No.1 of motorcycle No.HR-05D-6789, which is owned by respondent No.2 as reflected in registration certificate Ex.R6 and the same is insured with respondent No.3 vide insurance policy Ex.R5. Hence, issue No.1 is decided in favour of the petitioner and against the respondents.”

7. A perusal of the impugned award reveals that the learned Tribunal has meticulously appreciated the evidence on record and rightly returned the findings that the accident in question was the result of rash and negligent driving by respondent No.4, Nand Lal, who was driving the offending vehicle bearing registration No. HR-05D-6789 at the relevant time.

8. The testimony of eyewitness and pillion rider at the time of the accident who was examined as PW-1 Ramesh Kumar, is of crucial evidentiary value. His deposition is consistent, detailed, and categorically attributes the cause of the accident to the rash and negligent driving of respondent No.4. The fact that his testimony remained unshaken during cross-examination adds to its reliability.

9. Further corroboration is provided by another independent eyewitness who is examined as PW-4 Subhash Chander, deposed in consonance with PW-1. He, too, narrated the incident in detail and supported the claim that the offending motorcycle was being driven at a dangerously high speed and on the wrong side of the road, ultimately colliding with the motorcycle driven by Tilak Raj (since deceased).

**FAO-753-2007 (O&M)**

10. The consistency in the account of both eyewitnesses lends strong credence to the version of the claimants/respondent Nos. 1 to 3 and establishes, on the touchstone of preponderance of probabilities, that the accident was caused by rash and negligent driving of respondent No.4.

11. Although the FIR (Ex. R2) initially recorded the number of the offending vehicle as HR-05-6956, the subsequent police investigation conclusively clarified the correct registration number to be HR-05D-6789. It is well-settled that the FIR is not expected to be an encyclopedic document and may, particularly in accident cases, contain errors in details such as vehicle numbers. Victims or eyewitnesses may not have the opportunity or clarity to accurately record such details in the immediate aftermath of a traumatic event. What is crucial is the subsequent investigation and corroborative evidence that clarifies the actual involvement of the vehicle.

12. In this context, reliance can be placed on the judgment dated 30.04.2025 of this Court in **FAO No. 2603 of 2007 titled as Rajbir Singh vs. Ram Bhagat and anr.**, wherein it was held that discrepancies in the vehicle number in the FIR do not vitiate the claim, provided that the investigation later reveals the true facts. The relevant portion of the judgment is reproduced as under:-

“12. The Tribunal has erroneously placed undue emphasis on the fact that the FIR (Ex. P11), lodged on the very date of the occurrence, did not initially disclose the identity of driver or registration number of the offending vehicle. It is trite law that in cases involving motor accidents, particularly those resulting in serious bodily injuries, it is not uncommon for the victim to be unaware of the particulars of the offending vehicle at the initial stage.

**FAO-753-2007 (O&M)**

The law does not require the FIR to be a comprehensive narrative, nor does it mandate precise identification of the vehicle and driver at the inception. The purpose of the FIR is to set the criminal law into motion, and any subsequent identification emerging from investigation is legally sufficient to establish the involvement.

13. Further, the investigation conducted by the police lends decisive support to the version put forth by claimants/respondent Nos. 1 to 3. ASI Surender Kumar, the Investigating Officer, is examined as PW5, who has unequivocally stated that during the course of investigation, the correct registration number of the offending motorcycle was ascertained to be HR-05D-6789 and not HR-05-6956 as initially recorded in FIR. He further stated that a mechanical inspection of both vehicles was carried out and the involvement of respondent No.4 in the accident was confirmed. His statement is supported by the site plan, mechanical reports, and other records, all of which point towards the liability of respondent No.4.

14. It is equally pertinent to note that that strict rules of evidence are not applicable in the proceedings under the Motor Vehicles Act. The claims under the Act are to be adjudicated on the touchstone of preponderance of probabilities, and not on the standard of proof applicable in criminal jurisprudence. This position has been affirmed by Hon'ble the Supreme Court in judgment titled as ***Parmeshwari Vs. Amir Chand and others, 2011 (11) SCC 635***, wherein it was held that procedural technicalities must yield to the overarching object of the Act, which is social welfare and compensation to victims of road accidents. The relevant extract of the same is reproduced as under:-

**FAO-753-2007 (O&M)**

"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. In view of the above, this Court finds no force in the contention raised by learned counsel for the appellant that the initial error in the FIR vitiates the case. The consistent ocular testimony, the findings of police investigation, the corroborative documentary evidence, and the failure of appellant/Insurance Company to rebut the same collectively establish, on a preponderance of probabilities, that the accident was indeed caused by the rash and negligent

**FAO-753-2007 (O&M)**

driving of respondent No.4. The learned Tribunal has rightly held the vehicle bearing registration No. HR-05D-6789, owned by respondent No.4 and insured with the appellant-Insurance Company, to be the offending vehicle.

16. Accordingly, the findings of the learned Tribunal do not suffer from any legal infirmity or perversity warranting interference of this Court. So far as findings of the learned Tribunal on quantum of compensation are concerned, the claimants have preferred an appeal i.e FAO No. 3242-2007 before this Court which is allowed by this Court and the compensation granted to the claimants is enhanced by this Court, vide order/judgment of even date.

17. The present appeal, being devoid of merit, is hereby dismissed.

18. Further Insurance Company is directed to disburse the current schedule fee to Mr. Maninder Arora, Advocate, pursuant to order dated 18.07.2024 passed in FAO No.1682 of 2007 by this Court, within a period of twenty days from the date of receipt of copy of this order.

19. Pending application (s), if any, also stands disposed of.

08.05.2025

Gaurav Arora

**(SUDEEPTI SHARMA)
JUDGE**

Whether speaking/non-speaking : Speaking

Whether reportable : Yes