



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

FAO-4808-2008 (O&M)
Date of Decision: July 29, 2025

Ravinder Kaur and others

...Appellants

VERSUS

Ram Parvesh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Ram Kumar Saini, Advocate
for the appellants.

Mr.Punit Jain, Advocate
for respondent No.3.

ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, assailing the denial of compensation vide impugned judgment dated 24.05.2008 passed by learned Motor Accident Claims Tribunal, qua death of Varinder Singh.

The essential facts to be noticed, are as follows:-

That, on 03.10.2005, Varinder Singh was pillion rider on motorcycle bearing No.HR-02N-0627, which was being driven by respondent No.1-Ram Parvesh and they were proceeding to village Sukhpura. At about 10-10.30 p.m., when they reached within the area of village, on account of road being uneven, respondent No.1 lost control over the motorcycle and struck the same, against a cement slab, as a result whereof, Varinder Singh sustained



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multiple serious injuries. He was taken to Gaba Hospital, Yamunanagar, from where, he was referred to Fortis Hospital. However, he succumbed to his injuries on 04.10.2005.

Varinder Singh was asserted to be 26 years old and was indulging in agriculture and milk dairy. His monthly earnings were asserted to be Rs.3300/- per month and that the claimants were dependent upon the deceased. The claim petition was filed under Section 163-A of the Motor Vehicles Act.

In pursuance of the notice issued, the respondents made appearance. Respondents No.1 and 2 i.e. driver and owner of the motorcycle in question, admitted about the factum of accident as well as death of Varinder Singh by use of the motorcycle in question. However, they pleaded that the accident was not an outcome of the negligence, on the part of respondent No.1-Ram Parvesh.

Respondent No.3-insurance company, in its reply, had denied the accident. Rather, the claim petition was asserted to be an outcome of collusion of the claimants with respondents No.1 and 2. All other averments were denied and also it was asserted about there to be violation of terms and conditions of the insurance policy, on the part of the insured.

From the pleading of the parties, following issues were framed:-

- “1. Whether Virender Singh died by use of vehicle no.HR-02N-0627?*
- 2. If issue no.1 is proved, what amount of compensation the petitioners are entitled to and from whom? OPP.*
- 3. Whether there is a collusion between the petitioners and respondents no.1 and 2? OPR-3.*
- 4. Whether the respondent no.2 has willfully violated the*



terms and conditions of the insurance policy, if so, to what effect? OPR-3.

5. *Relief.”*

To substantiate the version, Ravinder Kaur, widow of Varinder Singh stepped into witness box as PW-1 and also examined Dr.Vandana, Medical Officer, Gaba Hospital as PW-2 and Head Constable Surender Kumar as PW-3, who proved DDR No.13 dated 14.10.2005 Ex.P-9.

On the other hand, respondent No.3 examined RW-2 J.N.Kashyap, Additional Director, Gaba Hospital, who brought original bed head ticket of Varinder Singh and proved first page of bed head ticket Ex.R3 and further also deposed that as per their record, on 03.10.2005 and 04.10.2005, no rukka was sent to the police, regarding admission of Varinder Singh, in their hospital, as a case of roadside accident. Besides the aforesaid witness RW-1 Ish Kumar, Assistant Manager, The United India Insurance Co. Ltd. was also examined, who proved insurance policy Ex.R1.

On appraisal of the evidence, brought on record, learned Tribunal had concluded about the claimants, having failed to establish about Varinder Singh to have died, as a result of injuries, arising out of use of motorcycle bearing No.HR-02N-0627 and also that it is proved that respondents No.1 and 2 are in collusion with the claimants. Resultantly, issue No.1 was decided against the claimants and issue No.3 was decided in favour of the insurance company. In view of the findings aforesaid, the claim petition was dismissed vide impugned judgment.

Being aggrieved, the appellants-claimants have filed the present appeal.

Upon notice issued, respondent No.3 made appearance through



counsel.

Learned counsel for the parties heard.

At the very outset, it is assiduously submitted by learned counsel for the appellants-claimants that the evidence, brought on record, has not been appraised by learned Tribunal in correct perspective and had erroneously concluded about the accident to have not taken place, due to use of motorcycle bearing registration No.HR-02N-0627, driven by respondent No.1-Ram Parvesh. Throughout the arguments, much emphasis has been laid upon DDR No.13 dated 14.10.2005 got recorded by respondent No.1-Ram Parvesh as well as emphasis was also laid on the medical evidence, brought on record, with regard to admission and treatment of Varinder Singh, till his death.

In the light of the aforesaid submissions, it is submitted that appeal be allowed, while reversing the findings on issues No.1 and 3.

On the other hand, learned counsel for the insurance company has refuted the claim of the appellants. In fact, it is submitted that learned Tribunal has very meticulously considered the testimonies of the witnesses as well as correctly appraised the recitals of the DDR and date of recording of the DDR. Also, the collusion has been very well spelt out from the material brought on record, the benefit whereof, ought not be given to the appellants-claimants. Furthermore, also learned counsel for the respondent pointed out that learned Tribunal has very well appraised the evidence and held about the version put forth by the appellants-claimants to have been demolished, on the basis of the recitals of 'own damage claim' as alleged by owner of the motorcycle in question.



In the light of the same, it is submitted that the evidence adduced by the appellants-claimants, do not inspire confidence and the same has been rightly discarded by learned Tribunal. As such, a prayer has been made for the dismissal of the appeal.

In the light of the submissions aforesaid, at the very outset, it is pertinent to mention that the proceedings under the Motor Vehicles Act are summary proceedings and the Tribunal is required to examine the case on preponderance of probabilities and should never insist upon proving the case on strict standard of proof i.e. beyond all reasonable doubt. However, basically the test is whether a prudent man, under the peculiar circumstances of the case, shall assume the existence of a certain fact, as true or disbelieve it. The proof of effect of the evidence adduced, depends not upon the accuracy of the statements, but upon the probability of their existence. As per the Indian Evidence Act, 1872, the anvil of testing “**proved**” “**disproved**” and “**not proved**” is the same in both civil and criminal cases, which is that of a prudent man. However, the Presiding Officer is required to test every evidence in this light, before relying upon it, in both civil and criminal proceedings.

However, considering the civil and criminal cases, the difference lies only in the standard of proof, which is higher in case of criminal cases i.e. the facts must be proved beyond all reasonable doubts, but in civil cases, the party only has to convince the Court of preponderance of probabilities in his favour. Section 101 of the Indian Evidence Act, 1872, which deals with the burden of proof, provides that ‘whosoever desires any Court to give judgment in his favour, on the basis of certain facts, must



establish the existence of those facts. Even, Section 103 of the *ibid* Act, provides that burden of proof of particular fact, lies on the person, who wishes the Court to believe in it.

All the aforesaid provisions, form a part of one binding thread, which calls upon the claimant, an undisputed burden to believe the foundational facts of the case and bring evidence for all the facts, which he relies upon to convince the Court that in the mind of a reasonable man, such facts should be believed to be true. It is only, thereupon, that the doctrine of preponderance of probabilities will come into picture and the Court after being reasonably satisfied, will not demand strict proof of evidence or any further evidence, to prove the same fact, in case of civil proceedings. The preponderance of probability is based on the principle that the test of a prudent person, who acts under the supposition that a fact exists, in the context and circumstances of a particular case.

Thus, it is evident that the doctrine of preponderance of probabilities of evidence, does not mean that the Civil Court/Tribunal is not required to apply basic test that whether a particular fact is proved or not. Even, if the standard of proof in civil cases is on lesser side, such requirement is not dispensed with.

In this backdrop, with the able assistance of the counsel, this Court has gone through the testimonies of witnesses, brought on record, as well as the contents of the DDR. It is categoric claim of the appellants that accident had taken place on the intervening night of 03/04.10.2005. Undisputedly, there is no eye witness to the accident in question. Ravinder Kaur, widow of deceased had stepped into witness box as PW-1, but she has



categorically admitted about not having witnessed the accident. Besides the same, another witness examined as PW-2 Dr.Vandana, who has deposed about the admission of deceased, in their hospital on 04.10.2005 and he having been referred to Fortis Hospital, Mohali. Third witness examined by the appellants-claimants is PW-3 Head Constable Surender Kumar, who had proved the copy of the DDR No.13 dated 14.10.2005 as Ex.P9.

Considering the aforesaid evidence, it is pertinent to mention that as per the version, put forth by the appellants-claimants, the ill-fated motorcycle was driven by respondent No.1-Ram Parvesh, at the relevant time of the accident. The aforesaid DDR was got registered at the instance of statement of Ram Parvesh. When occurrence had taken place on 03.10.2005, but the DDR was got recorded on 14.10.2005. What made the author of the DDR, to get lodged the DDR, after a period of 10 days, there is no reason, as such, coming on record. This delay of 10 days, in lodging the DDR Ex.P9, does not stand explained.

However, there is no other eye witness, who could connect about the accident to have taken place, on account of use of motorcycle bearing registration No.HR-02N-0627. Said Ram Parvesh has also not himself stepped into witness box.

Also it is pertinent to mention that plea of collusion between the claimants and respondents No.1 and 2, has also been asserted by the insurance company. The probability of the same also stands established from the material brought forth. PW-1 Ravinder Kaur, while facing cross-examination has admitted that respondent No.1-Ram Parvesh is the paternal uncle of her husband i.e. deceased and respondent No.2-Prince Nehra is the



cousin brother of her deceased husband. As such, it is evident that the witness was closely related to the aforesaid respondents. In the light of the same, the probability of collusion, as such, cannot be ruled out, more particularly, when these respondents have not stepped into witness box, lest they ought to face cross-examination, at the instance of the insurance company.

Not only this, it is further pertinent to mention that the version put forth by the appellants-claimants, is also rendered doubtful, from the 'own damage claim' lodged by respondent No.2 with the insurance company. Respondent No.2 had filed affidavit dated 10.05.2008, wherein, he mentioned that the motorcycle was validly insured with respondent No.3 w.e.f. 31.05.2005 to 30.05.2006 and that his motorcycle was damaged on 03.10.2005. The damage claim was lodged immediately with the insurance company and the claim was paid vide cheque No.00473 dated 27.12.2005 of Rs.7291/- and the said amount was also credited in his account. On filing of such an affidavit, a direction was given to respondent No.3 to produce the 'own damage claim' file of motorcycle bearing registration No.HR-02N-0627, on the basis whereof, the requisite cheque with the aforesaid details and amount was issued. Thereupon, the requisite record of the 'own damage claim' file was produced.

It is significant to note that said claim form is signed by respondent No.2 and therein, the date of accident has been mentioned as 06.11.2005 at 7.00 p.m., near Joria Naka, Yamuna Nagar. Therein, it is also asserted that friend of the registered owner was driving the motorcycle and when he reached at the spot of the accident, suddenly a motorcycle came

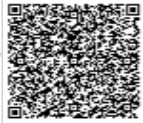


from the left side link road and to save the collusion, he turned the motorcycle towards right side, but it went out of control and struck against the divider. The motorcycle fell down on the road, on its right side and suffered damages.

In view of the recitals of 'own damage claim' file, as observed aforesaid, it has been very correctly held by learned Tribunal that the date of accident, place of accident and the manner of taking place of the accident, is entirely different. The date of accident is mentioned in the claim petition as 03.10.2005 at about 10-10.30 p.m., whereas, in the 'own damage claim', it is asserted to be 06.11.2005. Even, the manner of accident is different. The person involved is also stated to be different. In the light of the same, the contents of the DDR Ex.P9, got recorded after a period of 10 days, also do not stand substantiated by any other evidence.

In view of the aforesaid evidence, collusion of the appellants-claimants with respondents No.1 and 2, is writ large and the version put forth by the appellants-claimants, vis-a-vis, manner of taking place of the accident, do not inspire confidence. Even, learned Tribunal has very correctly appraised about the permission sought by respondents No.1 and 2 to examine respondent No.1 by way of additional evidence, at the fag end of the case, when the evidence of both the parties was closed. This also has been very well observed to be an attempt, on the part of respondents No.1 and 2 to help the appellants-claimants and to make good the deficiency, in the evidence of the claimants, about the involvement of the motorcycle bearing registration No.HR-02N-0627.

Thus, considering the evidence in entirety, learned Tribunal had



appropriately concluded about their to be collusion between the appellants-claimants and respondents No.1 and 2 and there is no sufficient connectivity to the recitals of the DDR, which could establish the involvement of motorcycle bearing registration No.HR-02N-0627, in the accident in question, particularly, when this DDR has been got lodged after a period of 10 days and that too, by respondent No.1-Ram Parvesh, who was driving the motorcycle, at the relevant time and who has already been held to be colluding with the appellants-claimants, as observed aforesaid.

In the light of the same, the findings on issues No.1 and 3 warrants no interference and as such, they are hereby affirmed. Consequently, the judgment of dismissal of the claim petition, also calls for no interference.

Hence, the appeal sans merit and is hereby dismissed.

July 29, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No