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

**FAO-4566-2025 (O&M)
Date of decision: 08.08.2025**

THE ORIENTAL INSURANCE CO. LTD.

..Appellant

Versus

SAROJ AND OTHERS

..Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Punit Jain, Advocate (through v.c.)
for the appellant.

SUDEEPTI SHARMA, J. (Oral)

CM-14413-CII-2025

1. This is an application for condoning of delay of 25 days in refiling the present appeal.

2. For the reasons mentioned in the application for condonation of delay which is supported by an affidavit, the application is allowed.

3. The delay of 25 days in refiling the present appeal, is condoned.

Main case

4. The present appeal has been filed by the appellant-Insurance company against the award dated 14.02.2025 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Rohtak (for short, 'the



Tribunal'), wherein the appellant-Insurance company was fastened with the liability to pay the compensation to the claimants along with interest @ 7.5% per annum from the date of filing of petition till actual realization along with costs of petition.

BRIEF FACTS OF THE CASE

5. Brief facts of the case are that on 17.04.2019, at about 5.15 p.m., Nidhi (since deceased) was going from her village to village Karotha on her Scooty bearing registration No.HR26AX/8188 for attending a marriage function. Her father Sanjay and uncle Anil Kumar were following her on separate motorcycle bearing No.HR12AA/4425. Anil Kumar was driving the motorcycle and Sanjay was pillion rider. At about 5.15 p.m., when they reached near Essar Petrol Pump on Rohtak-Jhajjar road, a truck bearing registration No.RJ-52GB/2999 (hereinafter referred to as the offending vehicle), driven by its driver i.e. respondent No.1 in a rash and negligent manner and at a very high speed came from back side and struck against the Scooty, due to which Nidhi sustained multiple grievous injuries and succumbed to the same at the spot. After causing the accident, respondent No.1 fled away from the spot.

6. Upon notice of the claim petition, respondent No.1 and 2 had not appeared despite service. Respondent No.3-Insurance Company (before the Tribunal) appeared and contested the claim petition by filing written statement denying the factum of accident/compensation.

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



(i) Whether the accident in question occurred due to rash and negligent driving of vehicle i.e. Truck bearing registration No.RJ-52GB/2999 by respondent No.1? OPP

(ii) If issue no.1 is proved whether Nidhi daughter of Sanjay had died due to the injuries sustained by him in the above-said accident, if so to what amount of compensation and from whom the claimant is entitled to? OPP

(iii) Whether there was willful violation of the terms and conditions of the insurance policy, if so to what effect? OPR3

(iv) Relief.

8. Thereafter, both the parties led their evidence in support of their respective pleadings.

9. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the liability to pay compensation was fastened upon the appellant-Insurance Company.

SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT:

10. Learned counsel for the appellant–insurance company contends that the learned Tribunal failed to appreciate the fact that the father and paternal uncle of the deceased, though shown as eyewitnesses, did not accompany the deceased to the hospital and that she was taken there by the police. He further contends that there were discrepancies in the statements of eye-witnesses. Therefore, he prays that the present appeal be allowed.

11. I have heard learned counsel for the appellant and perused the whole record of the case.



12. The relevant portion of the award is reproduced as under:-

“In order to prove this issue, the claimant-petitioner has examined Sanjay, the alleged eye witness of the accident and author of FIR as PW3 who vide affidavit Ex.PW3/A has testified that on 17.04.2019, his deceased daughter Nidhi was going to village Karotha on Scooty bearing registration No.HR-26AX/8188 for attending a marriage function. He (PW3) and his brother Anil Kumar were following her on a separate motor-cycle bearing No.HR-12AA/4425. Anil Kumar was driving the motor-cycle and he was pillion rider. At about 5.15 p.m., when they reached near Essar Petrol Pump on Rohtak-Jhajjar road, a truck bearing registration No.RJ-52GB/2999 driven by respondent No.1 in a rash and negligent manner and at a very high speed came from back side and struck against Scooty of the deceased, due to which she sustained multiple grievous injuries and succumbed to the same at the spot. They chased the offending vehicle but it fled away. After reaching the spot, Nidhi was got admitted in PGIMS, Rohtak where she was medicolegally examined and post mortem was conducted. On the basis of his statement, FIR No.219 dated 18.04.2019 under Sections 279 & 304-A of IPC was registered at Police Station Shivaji Colony, Rohtak.

16. Anil Kumar, uncle of the deceased who too according to the claimant was present at the time of accident, is examined as PW2. He tendered in evidence his affidavit Ex.PW2/A deposing the same facts which are stated by his brother Sanjay (PW3). The witness also stated that the accident took place



due to sole rash and negligent driving of the offending vehicle by respondent No.1.

17. Besides this evidence, the claimant-petitioner has also tendered documents, as mentioned above.

*18. While arguing the case, learned counsel for the claimantpetitioner has contended that from the evidence led on record of the case, the claimant has been able to prove that the accident as a result of which Nidhi expired had taken place on account of the rash and negligent driving of the offending vehicle by respondent No.1. It has been contended that the accident took place on 17.04.2019 and immediately thereafter, the injured was taken to PGIMS, Rohtak where she was declared dead by the doctor. The information qua accident was also received by the police and then FIR was promptly registered on the next day. It has been argued that respondent No.1 is facing trial for having caused the accident, which is clear from copy of report under Section 173 Cr.P.C. Learned counsel in support of his contention has placed reliance on **Anita Sharma and others Versus The New India Assurance Co. Ltd. and another, Civil Appeal Nos.4010-4011 of 2020, decided on 08.12.2020 and Anita Chand and others Versus Manas Ranjan Mohapatra and another, MACA No.804 of 2009, decided on 28.10.2010.***

19. On the other hand, learned counsel for the respondent No.3 has contended that the claimant has not been able to prove that the accident as a result of which Nidhi expired had taken place on account of the rash and negligent driving of the offending vehicle by respondent No.1. Learned counsel further submitted that no alleged accident



*took place with the offending vehicle and same has been falsely implicated by the claimant in collusion with the local police. In fact, it is a hit and run case. It is also submitted that neither PW2 nor PW3 were present at the time of accident. They were introduced as the eye witnesses later on with a view to implicate the offending vehicle. Simply because a report under Section 173 Cr.P.C. was presented by the police against the respondent No.1 and the respondent No.1 is facing trial, it would not establish its negligence. Learned counsel has placed reliance on **Brij Mohan Versus Sunil Kumar Gupta and others, 2008 ACP 142, Shri Ram General Insurance Company Ltd. Versus Jeeto Devi & Ors., 2020 (1) Law Herald (P&H)-83, Lilam Kumari Devi and another Versus Rohtash and others, FAO 771/2020, decided on 30.01.2023, Balwant Singh Versus Pardeep Kumar & Ors., FAO-3880-2012 (O&M), decided on 24.01.2024 and Smt.Sumitra Devi Versus Manish Kumar and others, FAO 2127/2021, decided on 06.02.2023.***

20. I have given due considerations to the arguments advanced by learned counsel for the parties.

21. It is settled law that the standard of proof in a criminal case is very strict. However, while dealing with cases of civil nature, the yardstick to be used is preponderance of probabilities. Furthermore, Section 166 of the Motor Vehicles Act is a piece of welfare legislation. It was enacted to provide prompt compensation to victim/legal heirs of deceased who got injured/killed in a road side accident. Hyper-technical approach is not to be



*adopted while adjudicating such type of petitions. Reference in this regard may be made to **New India Assurance Co. Ltd. Vs. Salochna Devi, 2020(P&H) RCR 327(P&H).***

*22. In **Anita Sharma and others Versus The New India Assurance Co. Ltd. and another, 2021 (1) RCR (Civil)-200**, it has been held by Hon'ble Supreme Court that standard of proof in motor accident matters is one of preponderance of probabilities rather than beyond reasonable doubt.*

23. As per the claim petition, the accident took place on 17.04.2019, at about 5.15 p.m. and immediately thereafter the FIR (Ex.P9) was registered on the next day on the statement of Sanjay, father of the deceased. Registration number of the offending vehicle has been duly mentioned in the FIR itself. Respondent No.1 was challaned and report under Section 173 Cr.P.C. was filed against him by the police after threadbare investigation, to face trial for the commission of offence punishable under Sections 279 & 304-A of the Indian Penal Code. The author of the FIR as well as alleged eye witnesses of the accident, namely, Sanjay and Anil Kumar have duly appeared in the witness-box as PW2 and PW3 and have deposed in detail about the manner in which the accident took place. They withstood the test of cross-examination and nothing came in the same which could have created any doubt in the case of the petitioners-claimants.

*In **Anita Chand and others Versus Manas Ranjan Mohapatra and another's case (supra)**, it has been held by Hon'ble Orissa High Court that the charge-sheet was submitted by the investigating*



officer under Sections 279 & 379-A IPC against the driver of the offending vehicle which attained its finality. Therefore, it can be safely concluded that the accident was caused by the offending vehicle.

24. In case **Ramphal v. Baljit Singh 2013 (1) PLR 790 (P&H)**, a charge-sheet was laid as against the first respondent before the Court after completion of the investigation. The Hon'ble High Court held that it would *prima facie* disclose that the investigating official was convinced that a case was made out for rash and negligent driving of the first respondent.

25. The contents of postmortem examination report Ex.P1 also supported version of claimants wherein it is mentioned that the cause of death in this case is injuries and their complications. No evidence contrary was led to upset the same. Further more, respondent No.1 would have raised hue and cry regarding his false implication before any competent authority, but his silence would certainly suggest that he was on the wheels of the offending vehicle at the time of accident. Further, in authority reported as **Lakhu Singh Vs. Uday Singh, 2008(1) Recent Civil Reports Page 805**, it has been held that the facts of registration of the FIR and trial of the accused in a criminal case, are sufficient to arrive at a conclusion that the accident had taken place.

26. Describing the nature of proceedings before a claims Tribunal, the Hon'ble Supreme Court in **Rajwati @ Rajjo Versus United India Insurance Company Ltd. 2022 SCC-1699 dt.09.12.2022**, has held that in a case relating to motor accident



claims, the claimants are not required to prove the case as it is required to be done in a criminal trial. The Court must keep this distinction in mind. It is well settled that Motor Vehicles Act, 1988 is a beneficial piece of legislation and as such, while dealing with compensation cases, once the actual occurrence of the accident has been established, the Tribunal's role would be to award just and fair compensation.

*In **Sunita Versus Rajasthan SRTC, (2020) 13 SCC 486**, it was held that the Tribunal would not be strictly bound by the pleadings of the parties. Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases.*

27. In these circumstances and from the statements of PW2 Anil Kumar and PW3 Sanjay and the other evidence discussed above, it has become clear that the accident in question took place due to the rashness & negligence on the part of respondent No.1 while driving the offending vehicle due to which Nidhi died. Therefore, this issue is hereby decided in favour of claimants and against the respondents.”

13. A perusal of the impugned award reveals that the learned Tribunal has meticulously appreciated the entire evidence placed on record and rightly returned finding that the accident in question occurred due to the rash and negligent driving of respondent No.2, the driver of the offending vehicle.



14. The contention raised by the learned counsel for the appellant/insurance company regarding alleged discrepancies in the statements of the eyewitnesses is devoid of substance and merits no consideration. The record clearly reflects that PW3 – Sanjay, the father of the deceased, who is also the author of the FIR, provided a consistent and coherent account of the accident. His deposition, rendered through affidavit Ex.PW3/A, delineated the sequence of events in detail and squarely attributed the cause of the accident to the negligent and reckless conduct of respondent No.2.

15. The testimony of PW-3 stood the test of cross-examination and remained unimpeached. No material contradictions or inconsistencies were elicited that could cast doubt on his credibility. His account was cogent, natural, and inspired the confidence of the Tribunal, rightly so.

16. Further corroboration is found in the testimony of PW2 – Anil Kumar, the uncle of the deceased, who was accompanying PW3 at the time of the incident. His testimony was in conformity with that of PW3 and reinforced the version advanced by the claimants. PW2- Anil Kumar too was cross-examined at length, but his testimony remained steadfast and unshaken, thereby lending further credence to the claimants' case.

17. Additionally, the post-mortem examination report (Ex.P1) clearly attributes the cause of death to the injuries sustained in the accident, thereby affirming the link between the accident and the fatal injuries suffered by the deceased. The medical evidence, thus, corroborates the ocular testimony of the witnesses.



18. Further the contention of the learned counsel for the appellant/insurance company that the learned Tribunal failed to appreciate the fact that the father and paternal uncle of the deceased, though shown as eyewitnesses, did not accompany the deceased to the hospital and that she was taken there by the police, is equally without merit. There is no material on record to substantiate that the accident did not occur in the manner stated by the claimants. The non-accompanying of the eyewitnesses to the hospital, even if assumed to be correct, does not *ipso facto* negate their presence at the scene of the accident or discredit their testimonies, particularly when the same have withstood during the detailed cross-examination and are otherwise consistent, natural, and trustworthy. Mere absence during subsequent medical formalities cannot be determinative of their credibility as eyewitnesses to the incident.

19. It is also significant to note that the appellant–insurance company failed to produce any substantive or credible evidence to rebut the case set up by the claimants or to establish any alternative version of the incident. No material was placed on record to discredit the presence of the eyewitnesses at the scene or to suggest that the offending vehicle was falsely implicated.

20. The law is well-settled that proceedings before the Motor Accident Claims Tribunal are of a summary nature, and the standard of proof require preponderance of probabilities, not proof beyond reasonable doubt as in criminal trials. In **Anita Sharma & Ors. v. New India Assurance Co. Ltd. (2021) 1 RCR (Civil) 200**, the Hon’ble Supreme Court reiterated that a hyper-technical approach



should not be adopted while adjudicating motor accident claims and that once the occurrence of the accident is established, the Tribunal is to proceed to determine just and fair compensation.

21. In the present case, the version of the claimants stands corroborated by contemporaneous documentary evidence including the FIR, medico-legal report, and the post-mortem report. The eyewitnesses have stood firm under scrutiny, and their depositions are found to be trustworthy and reliable.

22. Accordingly, this Court finds no perversity or illegality in the findings recorded by the learned Tribunal. The reasoning is well-founded in law and supported by cogent evidence. No grounds are made out to warrant interference by this appellate Court.

23. Resultantly, the present appeal stands dismissed being devoid of merit.

24. Further it is hereby directed that the statutory amount of Rs.25,000/- deposited by the appellant at the time of filing of appeal in the Registry of this Court be returned to him.

25. Pending miscellaneous applications, if any, are also disposed of.

August 08th, 2025

Ayub

**(SUDEEPTI SHARMA)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*