



FAO-953-2009 (O&M)

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

FAO-953-2009(O&M)

Date of Decision: July 22, 2025

Sachin and ors

.....Appellants

Versus

Ramesh Chand and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. P.S. Bhangu, Advocate
for the appellants.

Mr. Rahul Garg, Advocate
for respondent No. 1.

Mr. P.S. Paul, Advocate
for respondent No. 2.

Mr. Pardeep Goyal, Advocate
for respondent No. 3.

SUDEEPTI SHARMA J.

The case is listed before this Court for referral to the “Special Mediation Drive-Mediation ‘For the Nation’ List”.

Learned counsel for the parties contend that the matter cannot be referred to Mediation and Conciliation Centre of this Court. Therefore, the same is taken up today itself for final disposal.

FAO-953-2009(O&M)

1. The present appeal has been preferred against the award dated 03.10.2009 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 whereby the claim petition filed by the claimants/appellants before the learned Motor Accident Claims Tribunal, Ropar (for short, 'the Tribunal') was dismissed.

**FACTS NOT IN DISPUTE**

2. On 01.10.2005, Ram Piari was riding T.V.S Scooty bearing registration No. PB-16-A-3966. She was going towards her school. At about 8:10 A.M., when she reached near turning point of Brick Kiln area, respondent No. 1 came there driving Mini Bus bearing registration No. HP-19-A-2665 in a rash and negligent manner and hit the side of the bus against the scooter of Ram Piari. As a result of which, Ram Piari fell down and front tyre of the bus ran over her. She was taken to BBMB Hospital, Nangal where doctor declared her brought dead.

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

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

“1. Whether the accident that occurred at 8:10 AM on 1.10.2005 near Railway crossing Nangal, involving scooty No PB-16A-2665 and bus No. HP-19-A-2665 occurred due to rash and negligent driving of said bus by respondent No. 1? OPP

2. Whether the claimant received injuries in the said accident and is therefore entitled to recover Rs.25 lacs along with interest at the rate of 18% per annum from the respondents? OPP

3. Whether the accident occurred due to negligence of both the parties? If so, its effect on Insurer. OPR

4. Whether the petition is not maintainable on account of the preliminary objections raised in the written statement? OPR

5. Relief.”

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

5. The learned counsel for the appellants-claimants contends that the learned Tribunal has dismissed the claim petition only on the ground that



Ram Piari (deceased) herself was negligent in driving her scooty.

Therefore, he prays that the present appeal be allowed.

6. Per contra, learned counsel for the respondent-Insurance Company and learned counsel for respondent No. 1 and 2, however, vehemently argues that the claim petition has rightly been dismissed. They pray for dismissal of the appeal.

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

8. Before proceeding further, it is necessary to reproduce the relevant portion of the award, which reads as under:-

“ISSUE NO.1:

Whether the accident that occurred at 8.10 AM near Railway Crossing Nangal, involving Scooty No. PB-16-A-3966 and bus No. HP-19-A-2665 occurred rash and negligent driving of said bus by respondent due to No.1?

OPP

11. Whereas the learned counsel for the claimants has asserted that the accident had occurred due to the rash and negligent driving of the bus in question by the respondent No.1, the learned counsel for the respondents have asserted that in fact the accident had occurred due to the rash and negligent driving of the Scooty in question by the deceased. After hearing the learned counsel and after going through the file, I am of the firm opinion that the claim of the respondents is true.

From the claim petition and from the testimony of the alleged eye witness PW-2, one cannot know as to whether the deceased was keeping to her left, or she was in the middle of the road of



she was driving her Scooty on the wrong side of the road. One can also not know from the petition and testimony of the PW-2 as to whether the bus in question came from the opposite side or it came from behind of it came from a side of the Scooty. Apparently, from the above said story itself, it cannot be said that the accident had occurred due to the rash and negligent driving of the bus in question by the respondent. On the other hand, the story given by the respondent No.1 is clear. He has clearly asserted that he was driving the bus by observing due care and caution, in a normal speed and was keeping to his left, but, the deceased, while she was going down the depression of the road, lost control and struck against the rear wheel of the bus. From the above said story, it is apparent that at the material time, the respondent No.1 was driving his bus with due care and caution, but, it was the deceased who was unable to control her Scooty on account of the increased speed of the Scooty due to the depression in question and hence, she struck her Scooty against the rear wheel of the bus. That obviously means that the accident had occurred due to the rash and negligent driving of the Scooty in, question by the deceased. Thus, from the pleadings itself, it stands established that the story of the claimants is vague whereas the story given by the respondent No. 1 is plausible. The story of respondent No. 1 therefore prevails over the story given by the claimants and hence, it can be safely said that the claimants have failed to prove that the accident had occurred due to the rash and negligent driving of the bus in question by the respondent No.1.



13. *In the F.I.R., it has been claimed that the deceased was keeping to her left, whereas, the bus came from behind and struck its side against the Scooty. But the above said version stands belied by the claimants and the PW-2. The claimants in the petition and the PW-2 do not state that the bus had come from behind. Furthermore, as per the F.I.R, the bus banged a side of the bus against the Scooty and then ran over the deceased. I am of the opinion that the above said version is absolutely improbable. Had the respondent No.1 struck a side of the bus against the Scooty, the Scooty and its rider must have been thrown away from the bus and the Scooty and the rider must have escaped being over run by the bus. That way the case of the respondent No.1 is probable as it states that the deceased could not control her Scooty due to the increased speed of the scooty and hence, she struck her Scooty against the rear wheel of the bus.*

14. *In view of the discussion made above, I hold that the claimants have failed to prove that the accident had occurred due to the cash and negligent driving of the bus in question by the respondent The issue is therefore decided against the No.1 claimants.*

ISSUE NO.2

Whether the claimant received injuries in the said accident and is therefore entitled to recover Rs.25 lacs along with interest at the rate of 18% per annum from the respondents? OPP

15. *It is not disputed that the deceased was over run in the accident in question and therefore died due to the injuries*



received by her in the accident. But, the fact remains that since the accident had occurred due to the rash and negligent driving attributable to the deceased, therefore, the respondents are not liable to pay any compensation to the claimants from the death of the deceased. The issue stands decided accordingly.

9. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim petition filed by the claimants/appellants. Hence the claimants/appellants filed the present appeal for grant of compensation.

10. A perusal of the impugned award reveals that the learned Tribunal has erred in dismissing the claim petition on the ground that rash and negligent driving on the part of the respondent–driver was not proved. It is evident from the record that the FIR pertaining to the accident was lodged on the very same day by one Tikka Singh. A plain reading of the FIR demonstrates that the author of the FIR unequivocally attributed negligence to the respondent–driver of the offending bus, who was the cause of the accident. A close scrutiny of the award further discloses that the testimony of PW-2 Tikka Singh, who is an eye-witness to the occurrence, has not been properly appreciated by the Tribunal. His evidence is of considerable significance, as he narrated the entire chain of events leading to the accident and specifically fastened liability upon the respondent–driver. Despite being subjected to lengthy and searching cross-examination, his testimony withstood the test of credibility and remained consistent and unimpeachable.

11. The learned Tribunal, however, discredited the claim of the appellants on the premise that the FIR did not mention from which side the bus was approaching. This approach is legally unsustainable. It is a settled proposition of law that the FIR is not expected to be an encyclopaedia of every minute detail of



the incident. Its primary purpose is to set the criminal law in motion and not to furnish an exhaustive account of the occurrence. Thus, the Tribunal erred in treating omissions in the FIR as fatal to the case of the claimant while ignoring the substantive oral and documentary evidence available on record.

12. Further, the post-mortem report (Ex. P-1) categorically records the cause of death as “accidental injury,” thereby corroborating the claimant’s case. The site plan prepared contemporaneously with the investigation further fortifies the version of the claimants, making it abundantly clear that the accident occurred due to the negligent manner in which the bus was being driven. From no stretch of reasoning can it be inferred that the accident was occasioned by any contributory negligence on the part of the deceased.

13. It is also well settled that the standard of proof in proceedings under the Motor Vehicles Act is not the strict proof required in criminal trials, i.e., proof beyond reasonable doubt, but rather the test of preponderance of probabilities. In the present case, the claimants have successfully discharged this burden. The unimpeached testimony of PW-2, the corroboration by the FIR, the medical evidence, and the site plan collectively establish, on the touchstone of probability, that the accident occurred due to the rash and negligent driving of the offending vehicle by the respondent–driver.

14. In light of the aforesaid discussion and settled principles of law, the findings returned by the learned Motor Accident Claims Tribunal, Ropar vide award dated 03.10.2009 cannot be sustained in the eyes of law and are accordingly set aside. Consequently, the appeal is *allowed*.

15. However, since no finding was recorded by the learned Tribunal on Issue No. 2, therefore, this Court deems it fit to remand back the matter to the learned Tribunal to give its finding on issue No. 2 i.e “2. *Whether the claimant*



received injuries in the said accident and is therefore entitled to recover Rs.25 lacs along with interest at the rate of 18% per annum from the respondents? OPP

16. Both the parties are directed to appear before the Tribunal on 02.09.2025 and the learned Tribunal shall decide the above issue expeditiously, preferably within a period of six months from today.

17. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

July 22, 2025
Gaurav Arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes