



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

**FAO-5313-2011 (O&M)
Date of Decision: July 23, 2025**

Union of India and another

...Appellants

VERSUS

Sukhdeep Kaur and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Ms.Bhawna Thakur, Panel Counsel, UOI
for the appellants.

Mr.B.S.Jaswal, Advocate
for respondents No.1 to 4.

None for respondent No.5.

ARCHANA PURI, J.

The present appeal has been filed by the appellants, who are owners of the Army vehicle bearing registration No.06 D 172008H CHI 255 Stallion, thereby, assailing the Award dated 17.01.2011 passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted to the respondents-claimants, on account of death of Lakhbir Singh, in a motor vehicular accident.

For the convenience of discussion, the parties are referred to, as making appearance before learned Tribunal.

The essential pleaded facts, vis-a-vis, manner of taking place of the accident, are as follows:-



That, on 29.08.2008, at about 9.30 a.m., claimant No.1-Sukhdeep Kaur and her brother were standing in front of Baldev Petrol Pump, in the area of village Umra Nangal. Lakhbir Singh was crossing the road to reach them on the other side of the road. While he was crossing the road, then an Army vehicle bearing registration No.06 D 172008H CHI 255 Stallion, came from the Amritsar side. The said vehicle was being driven by respondent No.3-Satnam Singh, on the wrong side of the road, at a high speed and in rash and negligent manner. Respondent No.3 struck his vehicle against Lakhbir Singh, as a result whereof, said Army vehicle had dragged Lakhbir Singh for a long distance and people raised hue and cry. The driver of the Army vehicle was compelled to stop the vehicle. Lakhbir Singh had sustained multiple injuries, which proved fatal. The accident in question was witnessed by Sukhdeep Kaur and her brother Malkiat Singh. FIR No.174 of 2008 under Sections 304-A and 279 IPC was got registered, at the instance of statement of Sukhdeep Kaur.

It is categoric claim that accident had taken place, due to rash and negligent driving of Army vehicle by respondent No.3-Satnam Singh and the same resulted into death of Lakhbir Singh.

Upon notice issued, respondents made appearance and filed reply, wherein, though, the respondents have admitted about the taking place of the accident, but however, denied about manner of taking place of the same. In fact, they imputed negligence, on the part of Lakhbir Singh, as he was crossing the road carelessly, without noticing the traffic coming from his right side. They also took the plea that driver of the Army vehicle blew horn, but the deceased did not heed to the same.



In fact, it is pleaded by the respondents that Lakhbir Singh was pillion rider on the motorcycle of Gurdip Singh, alongwith whom, he had gone to purchase a mobile set. The fuel of the motorcycle had finished near Baldev Petrol Pump, which was across the road. Gurdip Singh asked the deceased to step down on one side of the highway, while he went to petrol pump to purchase fuel. After refuelling, Gurdip Singh had signalled Lakhbir Singh to come across the petrol pump, as a result whereof, Lakhbir Singh had carelessly crossed the road, without noticing the traffic coming from his right side. Also, it was pleaded that the traffic, on that day, was diverted to one side of the centre median of the road, due to construction on NHAI and the certificate by the Security Officer of IVRCL, the construction company, was also issued. As such, a prayer was made for the dismissal of the claim petition.

The replication was filed. From the pleadings of the parties, following issues were framed:-

- “1) Whether Lakhbir Singh had died in the motor vehicular accident which had taken place on 29.8.2008 at 9.30 A.M. in the area of Umra Nangal, near Rayya on account of rash and negligent driving of Army truck bearing No.06 D 172008H CHI 255 Stallion which was being driven by respondent No.3?OPP*
- 2) If issue No.1 is proved, whether the applicants are entitled to the compensation. If so, to what extent and from whom? OPP*
- 3) Whether deceased Lakhbir Singh was negligent while crossing the road in the highway as alleged? OPR*
- 4) Relief.”*

To substantiate their claim, claimant No.1-Sukhdeep Kaur

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stepped into witness box as PW-2 and also further examined Malkiat Singh as PW-1. Besides the same, also tendered into evidence the post-mortem report of Lakhbir Singh Ex.A1, certified copy of FIR Ex.A2 and the evidence was closed.

To rebut the claim of the claimants, the respondents examined Gurdip Singh as RW-1, whose part statement was recorded, but he never came forward for the further cross-examination. Furthermore, the respondents also examined RW-2 Subedar Prem Narain Singh, RW-3 Havaldar Surjit Singh, RW-4 Avinash Sinha, Safety Officer, IVRCL, RW-5 L/Nk Satnam Singh and RW-6 Pawan Kumar, photographer and thereafter, closed the evidence.

On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident to have taken place, on account of rash and negligent driving of Army vehicle bearing registration No.06 D 172008H CHI 255 Stallion, driven by Satnam Singh, its driver and the same resulted into multiple injuries on the person of Lakhbir Singh, which proved fatal. Accordingly, issue No.1 was decided in favour of the claimants and issue No.3 was decided against the respondents. Thereupon, compensation was worked up by learned Tribunal and award was passed to the extent of Rs.7,40,000/- and the liability of the respondents was held to be joint and several.

Feeling aggrieved by the findings recorded by learned Tribunal on issues No.1 and 3, the appellants-owners of the Army vehicle, have filed the present appeal.

Learned counsel for the parties heard.



At the very outset, it is pertinent to mention that during the course of arguments, learned counsel for the appellants confines his prayer, only on the findings recorded on issues No.1 and 3. It is submitted by learned counsel for the appellants-owners 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 taken place, due to rash and negligent driving of the Army vehicle by respondent No.3-Satnam Singh. In fact, much emphasis has been laid upon the testimony of Gurdip Singh, independent witness, who was accompanying Lakhbir Singh, at the relevant time and who had witnessed the accident. It is submitted that both the claimant No.1 as well as her brother were not present at the spot and had never witnessed the accident. Also, while making reference to the testimonies of driver RW-5 Satnam Singh as well as co-driver RW-3 Surjit Singh, it has been emphasized that negligence, on the part of the Lakhbir Singh, was amply established, which has been erroneously discarded by learned Tribunal. In fact, it is submitted that it was only to save Lakhbir Singh that the vehicle was swerved by driver Satnam Singh, to its right side.

In the light of the same, it is submitted that findings on issue No.3 should be reversed and thus, consequently, the claim petition, ought to be dismissed.

On the other hand, learned counsel for the respondents-claimants has refuted the claim of the appellant. In fact, it is submitted that learned Tribunal had very meticulously considered the testimonies of PW-1 Malkiat Singh and PW-2 Sukhdeep Kaur and has correctly concluded about rashness and negligence, to be there, on the part of respondent No.3-Satnam



Singh, while driving the Army vehicle in question. In fact, it is submitted that the version of the accident was required to be established on the principle of probability and the testimonies of claimant No.1 and her brother, do pass through the aforesaid test satisfactorily and inspire confidence. It is further submitted by learned counsel for the respondents-claimants that in fact, the version put forth by the driver Satnam Singh and co-driver Surjit Singh, has been correctly held to be not probable. The testimony of RW-1 Gurdip Singh has appropriately been discarded as it is not a complete statement. 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 and 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 PW-1 Malkiat Singh as well as PW-2 Sukhdeep Kaur, who are brother-in-law and widow of deceased Lakhbir Singh. They are allegedly the eye witnesses to the accident in question. Both the said witnesses have categorically deposed about the manner of taking place of the accident, in consonance with the pleaded case. They have categorically imputed rashness and negligence, on the part of Satnam Singh-respondent No.3, who was driving the Army vehicle, at the relevant time.

The post-mortem report and the FIR have also been proved. Though, it is submitted that both the aforesaid witnesses were never present at the spot and had never witnessed the accident, but however, nothing material elicited out in the cross-examination, to dislodge the version put forth by the aforesaid witnesses.

Not only this, even learned Tribunal had also appraised the testimonies of witnesses examined by the respondents, in a meticulous manner. It is the version put forth by the respondents about the accident to have been witnessed by Gurdip Singh, who had stepped into witness box as RW-1. Though, he had stated, in consonance with the pleaded case of the respondents and also deposed about the accident to have taken place, due to negligence, on the part of the deceased, but however, he faced cross-examination on 19.02.2002 and his further cross-examination was deferred and thereupon, he had never stepped into witness box. In the given circumstances, as it is a piecemeal statement, therefore, learned Tribunal has rightly discarded the testimony of Gurdip Singh.

Besides the aforesaid, other two material witnesses examined



by the respondents are the driver Satnam Singh-RW-5 and co-driver Havaladar Surjit Singh-RW-3. The said witnesses have deposed as per the version set up by the respondents.

No doubt, from the testimonies of RW-4 Avinash Sinha, Safety Officer, IVRCL, it is evident that National Highway from Rayya to Beas flyover was temporary closed on 29.08.2008, at the relevant time and the diversion boards were displayed, but however, the version of the accident, as deposed by the co-driver Havaladar Surjit Singh and driver-Satnam Singh do not inspire confidence. It is coming in the testimony of RW-3 Havaladar Surjit Singh that the vehicle was driven, at a speed of 30 kms. per hour and much emphasis has been laid upon this fact.

However, learned Tribunal had very appropriately considered the same and had concluded that if the speed was 30 kms. per hour and the driver had allegedly seen the pedestrian, coming in front of his vehicle, he could have very well control over his vehicle and stop the vehicle, but however, it was not so done. He had stopped the vehicle at a distance of 50 meters from the place of accident. Though, it is asserted that he had swerved the vehicle towards his right side, to save the pedestrian, but even then, the offending vehicle could not be made to stop at a distance of 50 meters, had it been under full control of Satnam Singh, who was on driver seat, at the relevant time.

Even, the criminal case was registered against Satnam Singh, which fact has also been admitted by Satnam Singh, while facing cross-examination. He admitted that he is facing trial.

Though, in the claim petition, the evidence has to be produced



independently, but the fact remains that the criminal case was also registered at the instance of Sukhdeep Kaur, widow of the deceased, soon after the accident. The FIR was got lodged by Sukhdeep Kaur, on that very day, with promptitude and therefore, there was no such gap, so as to, weave a false story, with a purpose to claim compensation. Moreover, there was silence, on the part of Satnam Singh also, as he had never pleaded anywhere about the false criminal case, having registered against him.

Considering the evidence in entirety, learned Tribunal had appropriately concluded about the story of the respondents, to be not believable. The testimonies of both the eye witnesses are more plausible and inspire confidence and have been rightly relied upon by learned Tribunal. Therefore, the findings recorded by learned Tribunal, on issues No.1 and 3 aforesaid, do not call for any reversal. Hence, the appeal sans merit and is hereby dismissed.

July 23, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No