



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

135

FAO-4844-2025 (O&M)
Date of decision: 01.09.2025

THE ORIENTAL INSURANCE CO. LTD.**.... Appellant****VERSUS****ANJALI AND OTHERS****....RESPONDENTS****CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Punit Jain, Advocate for the appellant.

HARPREET KAUR JEEWAN, J. (Oral)**CM-15788-2025**

This is an application under Section 151 CPC for condonation of delay of 28 days in re-filing the present appeal.

For the reasons mentioned in the application, the same is allowed. Delay of 28 days in re-filing the present appeal is hereby condoned.

FAO-4844-2025

1. In the present appeal challenge is made to the impugned award dated 24.02.2025, whereby, the claimants have been awarded a compensation in a sum of Rs.20,78,400/- along with interest @ 7% on account of death of Sunil kumar in the accident dated 26.03.2022.

2. Learned counsel for the appellant contends that claimants relied upon the testimony of an eye-witness, who has neither been referred in the FIR, nor in the final report prepared under Section 173 of Cr.P.C. Referring to the statement of PW-2/Ram Chander, it is submitted that there is head on collision *inter se* the truck and the Eicher vehicle (tractor), therefore, the



incident could be considered as a case of contributory negligence, since the deceased was himself driving the tractor at the time of accident. However, the Tribunal has not properly appreciated the evidence on record.

3. I have considered the submissions made on behalf of Insurance Company.

4. Brief facts of the case are that on 26.03.2022 at around 11 pm, deceased was going on his Eicher vehicle (tractor) bearing temporary No. T-0322 HR-0095Q/5649 from Tosham to Hisar. When he reached near village Gunjar, truck bearing No. HR-39E-8798 came from the opposite side and hit his vehicle, due to rash and negligent driving. Deceased was driving the said tractor and died on the spot. However, respondent No.5/driver of the offending vehicle fled away from the spot after leaving his truck behind. The accident was witnessed by Ram Chander (PW-2). FIR bearing No.369 dated 27.03.2022, under Sections 279, 304-A IPC was registered. Respondent No.5/driver of the offending vehicle has been challaned by the Police in the said FIR.

5. Respondent No.5/driver and the owner of the truck contested the claim petition by way of joint petition. The Insurance Company filed separate written statement and also contested the claim petition. After framing of issues, both the parties led their respective evidence and the Tribunal awarded compensation of Rs.20,78,400/- to the claimants by declaring the driver of the truck i.e. respondent No.5, to be driving the offending vehicle in a rash and negligent manner.

6. Merely on the ground that PW-2-Ram Chander did not join the



investigation, his statement cannot be discarded. The Tribunal has observed that he is an independent eye-witness and considered his deposition. He stated that on the day of accident at about 11 pm, while he was returning from Khanak on his motorcycle bearing No.HR-20-V-7413, driving behind the Eicher vehicle which was being driven by deceased, near village Gunjar, a truck No.HR-39-E-8798 came from the opposite side being driven in a rash and negligent manner and hit the vehicle of the deceased, resulting in death of the deceased. Apart from this, he further testified that when he was trying to help the injured-Sunil, his mobile phone rang and he picked up the call. The wife of injured Sunil was on the other side and he informed her about the accident. Thereafter, he called the police and after arrival of the police and family members of the deceased, he left the spot.

7. Keeping in view the fact that an independent witness is testified, no ground is made out to discard the testimony of PW-2/Ram Chander. In such circumstances, the Tribunal has rightly considered the statement of PW2 and held respondent No.1 to be driving the offending vehicle in a rash and negligent manner.

8. As such the finding of the Tribunal on issue No.1 alleging that the accident took place on account of rash and negligent driving of respondent No.5/driver of offending vehicle bearing registration No.HR-39E-8798, resulting into the death of deceased, requires no interference.

9. Taking the income of the deceased as Rs.13,500/- a total compensation of Rs. 20,78,400/- was awarded by the said Tribunal.

10. In such circumstances, no interference is called for and accordingly the present appeal is hereby dismissed.



- 11. The statutory amount of Rs.25,000/-be remitted to the Tribunal.
- 12. All pending miscellaneous applications, if any, stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

01.09.2025
Kusum

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No