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

**FAO-3501-2012 (O&M)**

**Date of Decision : 28.08.2025**

Maya Devi & Ors

... Appellant(s)

Versus

Gobind & Ors

... Respondent(s)

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. R.K. Saini, Advocate for the appellants.

None for respondent Nos.1 and 2.

Ms. Manvi Verma, Advocate for

Mr. Rajneesh Malhotra, Advocate for respondent No.3.

**ALKA SARIN, J. (Oral)**

1. The present appeal has been preferred by the claimant-appellants challenging the impugned award dated 05.03.2012 passed by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'Tribunal') whereby the claim petition was dismissed.

2. Brief facts relevant to the present *lis* are that on 18.03.2010 at about 10.30 am the deceased was coming back from his fields on his motorcycle bearing Registration No.HR-01-B-9104 from Kalpi side and when he reached in front of the Primary School, Chhapra, a Canter bearing Registration No.HR-66-4970 (hereinafter referred to as 'offending vehicle') which was being driven by respondent No.1 in a rash and negligent manner and on the wrong side of the road, struck against the motorcycle of the deceased. As a result of the accident, the deceased fell and sustained injuries and he was taken to Civil Hospital, Ambala Cantt. where he succumbed to his injuries.

3. Respondent Nos.1 and 2 appeared and they were directed to supply copies of certain documents. Written statement was not filed on their behalf and thereafter they stopped appearing and accordingly were proceeded against *ex parte*. Respondent No.3-Insurance Company filed its written statement denying the factum of the accident. It was stated that respondent No.1 was not holding a valid driving licence and the terms and conditions of the insurance policy had been breached.

4. On the basis of the pleadings and evidence, the Tribunal vide the impugned award dated 05.03.2012 dismissed the claim petition. Hence, the present appeal.

5. Learned counsel for the claimant-appellants would contend that the accident took place on 18.03.2010 at about 10.30 am and the driver of the offending vehicle was arrested at the spot. It is further the contention that infact the FIR was registered at 11.45 am the same day and it had the name of the driver as well as the number of the offending vehicle. However, the Tribunal has dismissed the claim petition while holding that there are discrepancies in the statement of Manjit Singh inasmuch as according to the FIR the statement of Manjit Singh was recorded at the spot whereas in his cross-examination he stated that Police had recorded his statement in the Police Station. Further, the discrepancy pointed out by the Tribunal was that the witness had stated that the name of the driver of the offending vehicle was given to him by the Police and he stated that the driver had been apprehended by the Police from the spot and he was being interrogated when he reached the Police Station. It was held that this part of his statement was in contradiction to his examination-in-chief and the contents of the FIR.

6. Respondent Nos.1 and 2 remain unrepresented despite service.

7. Learned counsel for respondent No.3 would contend that there were discrepancies in the statement made by Manjit Singh before the Tribunal and his statement as recorded in the FIR, hence, the claim petition has rightly been dismissed.

8. I have heard learned counsel for the parties.

9. In the present case the Tribunal instead of dealing with the statement and evidence led by the parties before it, has dismissed the claim petition only on the basis of some minor contradiction in the statement of the witness as made before it and in the FIR. In the present case the accident took place at 10.30 am and the FIR was lodged at about 11.45 am the same day. The name of the driver as well as the number of the offending vehicle was specifically mentioned in the FIR. Admittedly, the driver was apprehended by the Police at the spot. The Tribunal having ignored all these facts and merely on some minor contradiction dismissed the claim petition. Infact, the evidence as led by the claimant-appellants before the Tribunal has not even been touched upon.

10. It is trite that the cases under the Motor Vehicles Act, 1988 are to be decided on the touchstone of preponderance of probabilities. Hon'ble Supreme Court in the case of **Anita Sharma & Ors. vs. The New India Assurance Co. Ltd. & Anr.** [2021 (1) RCR (Civil) 200] has held as under :

*“22. Equally, we are concerned over the failure of the High Court to be cognizant of the fact that strict principles of evidence and standards of proof like in a criminal trial are inapplicable in MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the*

*approach and role of Courts while examining evidence in accident claim cases ought not to be to find fault with non-examination of some best eye-witnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true. A somewhat similar situation arose in Dulcina Fernandes v. Joaquim Xavier Cruz (2013) 10 SCC 646, wherein this Court reiterated that :*

*“7. It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pickup van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probabilities and certainly not on the basis of proof beyond reasonable doubt. (Bimla Devi v. Himachal RTC [(2009) 13 SCC 530: (2009) 5 SCC (Civ) 189: (2010) 1 SCC (Cri) 1101]).”*

23. The observation of the High Court that the author of the FIR (as per its judgment, the owner-cum-driver) had not been examined as a witness, and hence adverse inference ought to be drawn against the appellant-claimants, is wholly misconceived and misdirected. Not only is the owner-cum-driver not the author of the FIR, but instead he is one of the contesting respondents in the Claim Petition who, along with insurance company, is an interested party with a pecuniary stake in the result of the case. If the owner-cum-driver of the car were setting up a defence plea that the accident was a result of not his but the truck driver's carelessness or rashness, then the onus was on him to step into the witness box and explain as to how the accident had taken place. The fact that Sanjeev

*Kapoor chose not to depose in support of what he has pleaded in his written statement, further suggests that he was himself at fault. The High Court, therefore, ought not to have shifted the burden of proof.”*

11. In view of the above, the present appeal is allowed and the impugned award dated 05.03.2012 is set aside. The matter is remanded back to the successor Presiding Officer of the Tribunal concerned for a decision afresh in accordance with law after affording opportunity of hearing to the parties concerned.

12. The parties shall appear before the successor Presiding Officer of the Tribunal concerned at Ambala on **25.09.2024** at 10:00 am.

13. Pending applications, if any, also stand disposed off.

28.08.2025  
Yogesh Sharma

( **ALKA SARIN** )  
**JUDGE**

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO