

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****249****Date of decision: 27.10.2025****FAO-2987-2020(O&M)****Bajaj Allianz General Insurance Company Ltd.****...Appellant(s)****Vs.****Nirmala Devi & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sandeep Suri, Advocate
Mr. Divyam Suri, Advocate
Mr. Samarth Suri, Advocate
for the appellant/Insurance Company.

*********NIDHI GUPTA, J.**

Present appeal has been filed by the Insurance Company against the Award dated 29.01.2020 passed by Motor Accident Claims Tribunal, Kapurthala (hereinafter referred to as 'the learned Tribunal') whereby Claim Petition No.64 dated 18.09.2017 filed by the claimant/respondent No.1, under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), has been allowed and compensation of Rs.10,77,040/- has been awarded. The sole claimant/respondent No.1 is the 68-year-old widow of deceased Bhagwan Dass. Proforma Respondents No.4 to 8 herein were the pro-forma respondents before the Tribunal who are the major married children of the



deceased. As such, the said respondents were held not entitled to compensation, but were awarded Rs.50,000/- each.

2. Brief facts of the case are that the learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties concluded that the deceased Bhagwan Dass had died due to the injuries suffered by him in a motor vehicular accident that took place on 03.07.2017 due to the rash and negligent driving of tractor trolley bearing registration No.PB-08-CB-3067 (referred to herein as “the offending vehicle”) being driven by respondent No.2, owned by respondent No.3 and insured by the appellant. The aforesaid compensation has been awarded along with interest @ 6% per annum. The respondents No.2 and 3 and the appellant were held jointly and severally liable to pay the compensation.

3. The pleaded case of the claimant in the Claim Petition before the Tribunal as recorded in Para 1 of the impugned Award is as follows:-

“1. Nirmala Devi, claimant, claiming her 'to be the widow, of deceased Bhagwan Dass, perma respondent No.4,7 and 8 being married daughters, and perma respondent No.5 and 6 being sons of deceased Bhagwan Dass, has brought this petition, under section 166 of the Motor Vehicles Act, 1988 (in short the 'Act), against the respondents No.1 to 3. It is averred that Bhagwan Dass was 70 years of age at the time of his death. After retirement, Bhagwan Dass was running dairy farm in village Madhopur. He was earning Rs.72,000/-per month from his pension and diary farming (Rs.22426/- per month as pension + Rs.50,000/- per month from diary farming). Claimant



was totally dependent upon him. Bhagwan Dass (deceased) was keeping good health at the time of his death in a motor vehicle accident. On 03.07.2017, Bhagwan Dass (deceased) alongwith his son Jagjiwan Kumar (performa respondent No.4) were going to Kapurthala from their village Madhopur Jallowal on their motorcycle bearing registration No. PB09-Q-1080 make Platina. Bhagwan Dass was driving the motorcycle at a very slow speed on correct side of the road by observing the traffic rules and, at about 9.00 a.m. when they reached near the turning point of village Ariyanwal, on Kapurthala - Nathu Chahal road in the area of village Nathu Chahal, near Bus stop village Nathu Chahal, then one tractor trolley escorts bearing registration No.PB08-CB-3067, being driven by respondent No.1 in rash and negligent manner at a very high speed, came from the link road i.e. from the left hand side of deceased in order to approach the main Nathu Chahal-Kapurthala road and, struck against motorcycle being driven by Bhagwan Dass (deceased). Respondent No.1. took his tractor trolley on the main road without observing the traffic/vehicles moving on the main Nathu Chahal-Kapurthala road by driving his tractor trolley in a rash and negligent manner, at a very high speed without blowing horn. Due to the said accident, Bhagwan Dass died at the spot on account of multiple injuries suffered in the accident. The accident was witnessed by Jagjiwan Kumar, Sharanjit Sharma and Kuldip Rai. Matter was reported to the police and FIR bearing No.95 dated 11.07.2017, under section 304-A, 279, 427 IPC, PS Sadar Kapurthala, was got registered against respondent No.1. Said accident has been occurred due to rash and negligent driving of respondent no.1.”



4. Learned counsel for the appellant submits that the claimant cannot be held entitled to compensation, as first and foremost, there was substantial unexplained delay in registration of the FIR. It is submitted that the accident is stated to have taken place on 03.07.2017; whereas FIR No. 95 (Annexure A4) was registered more than a week thereafter on 11.07.2017 at Police Station Sadar Kapurthala. Learned counsel refers to the relevant extract of the said FIR to submit that although as per the pleaded case of the claimant, Jagjiwan Kumar son of the deceased was eyewitness to the accident in question, however, the said FIR was registered on the statement made by the claimant/widow of the deceased. No explanation is forthcoming as to why the FIR was not registered by the eyewitness. It is pointed out that in the FIR, even the number of the offending vehicle is not mentioned.

5. Learned counsel for the appellant further argues that vide judgment dated 01.02.2020 passed by learned Additional Chief Judicial Magistrate, Kapurthala (Annexure A7), the respondent No.2 has been acquitted in the FIR No.95 dated 11.07.2017 as the eyewitness/Jagjivan Kumar had turned hostile. It is submitted that in such a situation, the claimant cannot be held entitled to compensation. In support of his contention, Id. counsel relies upon judgment of this Court in “**Dinesh Singh & Others Vs. Anil Kumar & Others**” **FAO-4591-2016; (2025-2) 217 PLR 271.**



6. On the other hand, learned counsel for the claimant vehemently opposes the submissions made on behalf of the appellant-Insurance Company and submits that proceedings before the learned Tribunal are summary in nature; and the test required in a criminal case of proving the allegations beyond doubt is not required before the learned Tribunal. It is further submitted that the Act is a beneficial legislation and therefore, the claimant cannot be deprived of compensation. Learned counsel relies upon judgments of this Court in **“ICICI Lombard General Insurance Company Limited Vs. Kartar Singh & Others”** FAO-666 of 2021 decided on 02.09.2021; **“Oriental Insurance Company Ltd. Vs. Malkiat Kaur alias Malkiyat Kaur & Others”** FAO-4426-2019 decided on 22.08.2019; and **“Bajaj Allianz General Insurance Company Limited Vs. Ranjit Kaur & Others”** FAO-1778-2016.

7. No other argument is made on behalf of the parties.

8. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.

9. The learned Tribunal has awarded compensation in the following manner:-

Head	Amount
Age	70 years
Occupation	Retired from Police as ASI
Income	Rs.22,426/- pension
Multiplier	5
Deduction made	1/3 rd
Loss of estate	Rs.25,000/-



Funeral expenses	Rs.15,000/-
Loss of consortium	Rs.1,00,000/-
Loss of love and affection	Rs.40,000/-
Total	Rs.1,79,408/- x 5 = Rs.8,97,040/- + Rs.1,80,000/- = Rs.10,77,040/-

10. A perusal of the record shows that there is no cogent explanation coming forth from the claimant for the delay in registration of FIR. The accident had taken place on 3.7.2017. It was claimed to have been witnessed by Jagjivan Kumar/son of the deceased. There is no reason given as to why Jagjivan Kumar did not register the FIR. The claimant/widow of the deceased has stated that she had gone abroad and had returned only on 6.7.2017; whereafter, FIR was registered on 11.7.2017. Even no reasons are given as to why FIR was not registered immediately upon her return. Moreover, number of the offending vehicle is not mentioned in the FIR. The above facts are borne out from the following relevant extract of the FIR No.95 dated 11.07.2017 (Annexure A4) as under: -

“...That I had gone abroad and came back on 6-7-2017 then on my return my son Jagjivan Kumar told me that on 3-7-17 my son Jagjivan Kumar alongwth my husband Bhagwan Das were going on motorcycle number PB-09 -Q1080 Marka Paltina via village Madhopur Jalowal to Kapurthala when they reached near Kala Sandhia Kaputhala road that one tractor came onto the main road from the link road it was being driven by a sardar driver who brought his tractor trolley in a very fast manner onto the main road as a result of which our motorcycle hit the trolley which was being driven by my husband Bhagwan



Das and my son told me that he fell on the side of the road and my husband Bhagwan Dass suffered injuries on the head and he died on the spot. My son Jagjivan Kumar could not get his statement recorded on that day, that I have enquired from and satisfied myself with enquiry from my son Jagjivan Kumar. My husband's death was caused by tractor trolley driver Amarjit Singh son of Saraban Singh resident Nathu Chahal because of driving at high speed and carelessly causing an accident by coming onto the Main Road so legal action should be taken against Amarjit Singh. Nirmala Devi,"

11. Thus, claim petition ought to have been rejected on these short grounds itself, as the above facts lead to the inference that the offending vehicle has been falsely implicated as an after thought, with a view to procure the compensation.

12. I also find merit in the submission on behalf of the appellant/ Insurance Company that the claimant is not entitled to compensation as she had turned hostile in the criminal trial against the respondent no.2/driver of the offending vehicle; as a result of which he was acquitted. A perusal of the record shows that the claimant side has taken diametrically opposite stands before the Tribunal, and before the trial court.

13. The complainant/claimant Nirmala Devi had stated before the Tribunal and in the FIR that the accident had been caused due to the rash and negligent driving of the offending vehicle by respondent no.2 namely Amarjeet Singh. However, in the criminal trial against Amarjeet Singh, the claimant as PW3 has reneged on her previous statement and has made the



following statement dated 30.01.2020 (Annexure A-5) before the Additional Chief Judicial Magistrate, Kapurthala: -

"...On that day my son Jagjivan Kumar could not record his statement as he was disturbed due to his father's death. When I came back and came to know about the incidence, I got recorded my statement Ex. PA. I did not witnessed the occurrence as my son witness the same. My son did not disclosed me the name of the person who was driving tractor trolley on the day of occurrence. The person present in the court is not known to me and nor anyone had disclosed me that he was the person who rammed his tractor trolley into my husband's motorcycle.

(At this stage APP for State requested the court that the witness is suppressing the truth and is resiling from his previous statement and is not supporting the prosecution version, so he may be declared hostile and prosecution may be given opportunity to cross examine the witness to check his veracity. Heard. Request considered and allowed.)

It is wrong to suggest that I had got recorded my statement Ex. PA. It is neither a fact nor I stated to the police that on 03.07.2017, when my son along-with my husband on their motor-cycle was proceeded towards Kapurthala, one tractor trolley in a very rash and negligent manner rammed into their motor-cycle, resultingly my husband fell down and sustained injuries in the said accident. It is neither a fact nor I stated to the police that on the day of accident the tractor trolley driven by Amarjit Singh S/o Sarwan Singh R/o Village Nathuchall in a very rash and negligent manner as disclosed to me by my son Jagjiwan Kumar. It is neither a fact nor I stated to the police



that the accident occurred due to rash and negligent manner of driving of accused Amarjit Singh.

(Attention of the witness is drawn toward her statement Ex.PA from its portion A to A1 of statement Ex. PA where it is so recorded but the witness denies having made such statement to the police). It is wrong to suggest that I have entered into to compromise with the accused. It is further wrong to suggest that I have obtained monetary benefits. It is wrong to suggest that I have deposed falsely.”

(Emphasis added)

14. Similarly, eyewitness Jagjivan Kumar has made the following statement before the Tribunal: –

“...I had also suffered injuries on my person in this accident. My father died at the spot. The trolley was fitted with the tractor. However, trolley was empty at the time volunteered the front portion of the tractor had only hit the motorcycle. It is wrong to suggest that I was not present at the spot. It is wrong to suggest that this accident has occurred only due to rash and negligent driving of my father since deceased. It is wrong to suggest that the driver of the tractor namely Amarjit Singh was not negligent in any manner in cause of this accident...”

15. However, in the criminal trial against respondent no.2, the eyewitness Jagjivan Kumar as PW4 vide statement dated 30.01.2020 (Annexure A6) has stated before the learned Additional Chief Judicial Magistrate, Kapurthala as under: -



“...I did not disclosed the name of the person who was driving tractor trolley on the day of occurrence. The person present in the court is not known to me and nor anyone had disclosed me that he was the person who rammed his tractor trolley into my father's motorcycle.

(At this stage APP for State requested the court that the witness is suppressing the truth and is resiling from his previous statement and is not supporting the prosecution version, so he may be declared hostile and prosecution may be given opportunity to cross examine the witness to check his veracity. Heard. Request considered and allowed.)

It is wrong to suggest that I had got recorded Mark PA. It is neither a fact nor I stated to the police that on 03.07.2017, when I along-with my father on our motorcycle was proceeded towards Kapurthala, one tractor trolley in a very rash and negligent manner rammed into their motor-cycle, resultantly my father fell down and sustained injuries in the said accident. It is neither a fact nor I stated to the police that on the day of accident the tractor trolley driven by Amarjit Singh S/o Sarwan Singh R/o Village Nathuchall in a very rash and negligent manner. It is neither a fact nor I stated to the police that the accident occurred due to rash and negligent manner of driving of accused Amarjit Singh.

(Attention of the witness is drawn toward her statement Ex.PA from its portion A to A1 of statement Ex. PA where it is so recorded but the witness denies having made such statement to the police). It is wrong to suggest that I have entered into to compromise with the accused. It is further wrong to suggest



that I have obtained monetary benefits. It is wrong to suggest that I have deposed falsely."

16. Resultantly, respondent No.2 was acquitted by the learned Chief Judicial Magistrate, Kapurthala vide judgment dated 01.02.2020 (Annexure A7) in the following manner: -

"11.....Now, in the present case, the criminal machinery was set into motion, when the complainant Nirmala Devi recorded her statement with the police stating therein that she had gone abroad and on 06.07.2017 she returned back. On her arrival, her son Jagjivan Kumar told her that on 03.07.2017 he alongwith his father Bhagwan Dass were going on motor cycle bearing registration no.PB-09-Q-1080 Platina from their village Madhopur Jallowal to Kapurthala and when they reached near village Nathuchal Arianwala, then from the link road a tractor trolley driven by Sikh gentleman came in a high speed and negligent manner and came on the main road and hit the motorcycle driven by her husband Bhagwan Dass, as a result of which her husband fell down on road and suffered injuries on his head as a result he died on the spot. However, when the complainant Nirmala Devi stepped into the witness box, she totally took a U-turn and stated that she did not witness the occurrence 'as his son witnessed the same. Her son did not disclose her the name of the person who was driving tractor trolley on the day of occurrence. The person present in the court is not known to her nor anyone had disclosed to her that he was the person who rammed his tractor trolley into her husband's motorcycle. The testimony of PW-1 HC Kulwinder



Singh and PW2 HC Bakhish Singh are of formal nature which cannot connect the accused with the alleged offence. PW4 Jagjiwan Kumar (eyewitness) has also not supported the prosecution version. Except above-said witnesses, no other witness has been examined by the prosecution.

12. Since the informant/complainant Nirmala Devi has not supported the prosecution version and has turned hostile. Furthermore, PW4 Jagjiwan Kumar, who was the eye witnesses has also not supported the prosecution case. From the testimony of PW-1 and PW-2 nothing incriminating evidence have come on record against the accused. In these circumstances, this Court has reached to the conclusion that prosecution has miserably failed to bring home the guilt of the accused beyond shadow of reasonable doubt.....”

17. A bare reading of the above facts shows that the claimant side has turned turtle on its previous statement. It is to be appreciated that the present claim petition was filed by the claimants with the positive averments that Jagjivan Kumar had witnessed the accident in question which had been caused due to the rash and negligent driving of the offending vehicle by respondent no.2. Even in their oral evidence, the said alleged eyewitness had reiterated the above version. However, in the criminal trial against respondent no.2/Driver, both the above witnesses i.e. the claimant as PW3, and eyewitness Jagjivan Kumar as PW4 had taken a diametrically opposite stand - now asserting that they had not stated that respondent no.2 had rammed his offending tractor into the motorcycle of



the deceased; that they had not disclosed the name of the offending driver; and they had refused to identify him in court; and they further denied that the accident had taken place due to the rash and negligent driving by respondent no.2. This Court cannot be a deaf-mute spectator to the two contradictory versions given by the claimant side. No doubt, proceedings under the Act have to be decided on the preponderance of probabilities. However, this Court cannot shut its eyes in an ostrich like manner, to the starkly diametrically opposite stance taken by the claimants' side in the criminal trial. Thus, it cannot be said that the accident in question was caused due to the rash and negligent driving of the offending vehicle by respondent No.1; as the same would be contrary to the own statements made by the claimant. It cannot be ignored that it is the own statement (Annexure A-5) of the claimant that she did not know in what manner the accident had happened; that she had not seen the accident; that she did not know the accused and that she had seen the accused for the first time in the Court. In view of these positive statements of the claimant, no credence can be attributed to the subsequent statements made by her before the learned Tribunal. It would therefore appear that the claimant had deposed falsely before the Tribunal only to get the compensation. In such a situation, the impugned Award cannot be upheld.

18. I find support in my view from a judgment of this Court rendered in **“United India Insurance Company Limited Vs. Kamla Devi &**



Others” (P&H) : Law Finder Doc Id # 251230 wherein it has been held as

follows: –

"5. It should still have been possible for the Tribunal to take a decision uninfluenced by any decision that may have come before the criminal court. The several decisions which have come about on this issue are to the effect that a judgment in a criminal court is not binding on the Tribunal; the non-filing of a FIR is not material; even the fact of involvement of the vehicle as found by the criminal court is not binding. While the Tribunal is competent to assess the evidence which is brought before it and take an independent decision, then the point that has to be seen is whether there was any evidence worth its name before the Tribunal to come a finding that the particular vehicle was involved in the accident. It can be either that the version of Sitar Mohd. cannot be relied for he has contradicted himself wholesale with the version given before the criminal court or looked for other evidence which was placed before the Court. Alternatively if any explanation had been given by the witness as to why he deposed falsehood before the criminal court, even such an explanation could have been accepted to enter a finding that the accident took place only involving the particular insured's vehicle. In this case, no explanation has been given by the witness as to why he stated before the criminal court that he did not know which vehicle was involved in the accident. He would, on the other hand, defy that he ever made any such statement before the criminal court, necessitating the statement made before the criminal court to be exhibited for contradiction before the Tribunal. It must be remembered a statement in criminal court case by a witness is



also on oath. If he was uttering falsehood, he was liable for perjury. If there was contradiction between the version elicited before the Tribunal to the statement made before the criminal court then such a witness will be unworthy of acceptance. The Tribunal could have simply rejected the whole evidence. If it was going to pick out one line from chief examination to say that the insured's vehicle was involved in the accident, the Tribunal was doing something which is not a judicial function but a travesty of justice."

19. The above said view has been followed by this Court in **"Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others"** FAO-2231-2014 decided on 03.12.2019, wherein it is held as under:-

*"(6) This Court cannot loose sight of the judgment rendered by this Court in the case of **United India Insurance Company Limited versus Kamla Devi and others**, wherein it was specifically held that in case an eye witness gives totally different version before the Court conducting trial in criminal case from the statement made by the said eye witness before the Tribunal, the testimony of such a witness is unworthy of being accepted and the evidence should be simply rejected. In fact, the learned Single Bench came down heavily on such witness and held that the said witness is also liable for perjury."*

20. I am in agreement with the abovesaid view taken by my worthy predecessors that the claimant side is liable for perjury for making contradictory statements before two Courts of Law. Judgment(s) relied



upon by the learned counsel for the appellant are distinguishable on facts and law.

21. In view of the above, present appeal is **allowed**; and the Award dated 29.01.2020 passed by the learned Tribunal is set aside.

22. Pending application(s) if any also stand(s) disposed of.

27.10.2025
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No