



FAO-1912-2015 (O&M)

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

(113)

**FAO-1912-2015 (O&M)
Date of decision:- 06.05.2025**

New India Assurance Co. Ltd.

... Appellant

Versus

Paramjit Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Puneet Sharma, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate
for claimant/respondent No.1.

None for respondent No.3.

Respondents No.2 and 4 have been proceeded against exparte vide
order dated 16.07.2015.

SUVIR SEHGAL, J. (ORAL)

1. Appellant-insurance company is in appeal assailing award dated 01.11.2014 passed by Motor Accident Claims Tribunal, Ropar (for short “the Tribunal”), whereby a claim petition, preferred by claimants-respondents No.1 and 2, under Section 166 of the Motor Vehicles Act, 1988 (for short “the M.V. Act”), has been partly accepted.

2. Brief facts leading to the filing of the appeal are that on 10.07.2013, when Tarsem Lal along with his son, Balwinder Singh, were going for work on their bicycle, a Maruti car coming from the opposite side, being driven by



Gurvinder Singh, swerved the vehicle in order to avoid hitting a stray cow and resultantly hit the bicycle. Tarsem Lal's head struck against the car and he received multiple injuries. He was taken to the Civil Hospital, Ropar from where he was referred to PGIMER, Chandigarh. He was operated upon and remained hospitalized from 11.07.2013 to 19.07.2013. He remained in coma till 11.11.2013 when he succumbed to his injuries. DDR No. 29(A) dated 25.07.2013 was registered at Police Station City Ropar. Claiming compensation on account of the death of Tarsem Lal as well as the expenses incurred on his treatment, a petition under Section 166 of the M.V. Act was filed, which has been partly accepted vide award impugned herein and the claimants have been granted a compensation of Rs.4,76,374/- along with interest at the rate of 9% per annum from the date of institution of the petition. The driver and owner of the offending vehicle as well as the insurance company have been jointly and severally held liable to pay the amount.

3. Mr. Puneet Sharma, counsel for the appellant-insurance company has disputed that the accident never took place and no FIR has been registered. He asserts that there is an unexplained delay of 15 days in the lodging of the DDR. It is also his argument that the author of the DDR did not step into the witness box to prove the accident and the evidence of the widow of the deceased deserves to be discarded.

4. While supporting the impugned award, Mr. Neeraj Khanna, counsel for the claimant-respondent No.1 has referred to the evidence on the record to contends that the accident stands proved and delay in lodging the DDR had occurred as the claimants were ensuring medical treatment to Tarsem Lal.



5. I have heard counsel for the parties and considered their respective submission, besides examining the requisitioned record.

6. In order to prove the factum of the accident, claimants examined Paramjit Kaur, PW-1, widow of the deceased as well as Dr. Satish Kumar Bansal, PW-2, Neuro Surgeon at PGI, Chandigarh. In his examination-in-chief, Dr. Satish Kumar Bansal stated that he is posted as a Senior Resident with PGIMER, Chandigarh and he had treated Tarsem Lal, who was admitted in the hospital on 10.07.2013 with alleged history of road side accident. He deposed that Tarsem Lal was unconscious and was diagnosed to have “B/L F ‘T’ contusion c Pneumocephalus c F sinus fracture” (which essentially describes bilateral frontal trauma causing brain contusions, accompanied by pneumocephalus and a fracture of the frontal sinus). According to this witness, Tarsem Lal was operated upon on 11.07.2013 and discharged on 19.07.2013, though he was in an unconscious state. He was referred to District Civil Hospital for general nursing care and management. This witness has produced the treatment bills of the patient as Ex. P-2 to Ex.P-28 and Ex.P-43. He deposed that the medicines mentioned in the bills were prescribed by him. The discharge and follow up card of the PGI has been exhibited as P-44. He testified that the injuries on the patient were life threatening and sufficient to cause death. In his cross-examination, he stated that intimation was given to the Police Post at PGI, but police never met him for the purpose of recording of statement of Tarsem Lal. He has admitted in the cross-examination that the patient was referred from Civil Hospital, Ropar on 10.07.2013.

7. In their evidence, the respondents produced Varinderpal Singh, RW-1

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Junior Assistant, SMO Office, Civil Hospital, Ropar, who brought the Emergency Admission Register and on its basis deposed that Tarsem Lal was brought to the hospital on 10.07.2013 by Davinder Singh and Mewa Singh of village Dulchi Majra at 08:00 A.M. and he was referred to PGI at 09:20 A.M. He has exhibited copy of the Emergency Admission Register as Ex.R-1. In his cross-examination, this witness stated that it was a case of road side accident, which had taken place near Nirankari Bhawan, Ropar.

8. It is true that the lodging of a Daily Diary Report (DDR) with the police does not automatically prove the occurrence of an accident. DDR entry indicates that an accident has been reported to the police, but it is not a conclusive proof of the accident itself. However, when the DDR entry is supported by other collaborative evidence in the form of testimony of the treating doctor as well an official from the SMO Office, Civil Hospital, Ropar along with the relevant record, this Court has no hesitation in coming to the conclusion that Tarsem Lal had met with a road accident. He underwent treatment and succumbed to injuries sustained in the vehicular accident.

9. A claimant is expected to prove the motor vehicular accident or the involvement of the offending vehicle on a preponderance of probability and not beyond any reasonable doubt. Reference in this regard may be made to **Sajeena Ikhbal and others Versus Mini Babu George and others, (2024) SCC Online SC 2883**. Observations of the Supreme Court in **Bimla Devi and others Versus Himachal Road Transport Corporation and others (2009) 13 SCC 530** are relevant and are reproduced hereunder:-

“15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was



necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties.”

10. An examination of the DDR, Ex.P-1, which has been lodged by Balwinder Singh, son of the deceased, who was going on a cycle with Tarsem Lal shows that he has described the mode and manner of the accident and has also mentioned the registration number of the offending vehicle. Mere fact that Balwinder Singh has not stepped into the witness box to support the case of the claimants is not fatal to the case of the claimants. Applying the test of preponderance of probability, cumulative reading of the DDR along with the evidence of independent witnesses leads this Court to the irresistible conclusion that Tarsem Lal had met with an accident and died as a result of the injuries sustained by him.

11. Undoubtedly, there is a delay of 15 days in the lodging of the DDR. But from the testimony of Paramjit Kaur and the evidence on the record, it is evident that after the accident took place on 10.07.2013, Tarsem Lal was hospitalized and he remained admitted in PGIMER, Chandigarh till 19.07.2013. He was discharged from PGI in an unconscious state and he remained in a coma till his death on 11.11.2013. It is, therefore, clear that the



first priority of the claimants was that Tarsem Lal got the necessary medical attention rather than lodging the report with the police. In **Ravi Versus Badrinarayn and others, (2011) 4 SCC 639**, Supreme Court has held that the delay in lodging of a criminal case cannot be a ground to dispute the claimant's case. Knowing the Indian conditions as they are, it cannot be expected that a common man would rush to the Police Station immediately after the accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the Police Station. They are not expected to act mechanically with promptitude in lodging the criminal case with the Police and the delay in itself cannot be a ground to deny justice to the victim. This Court is of the view that delay of 15 days in the lodging of the DDR stands sufficiently explained from the circumstances of the case and no weight deserves to be attached to it.

12. Appellant has not disputed the quantum of compensation. Therefore, the compensation of Rs.4,76,324/- awarded by the Tribunal along with interest at the rate of 9% per annum is upheld. No other point has been argued. There is no merit in any of the submissions made by counsel for the appellant, which are rejected.

13. Appeal being devoid of merit is dismissed with no order as to cost.

14. Pending application, if any, is also disposed of.

(SUVIR SEHGAL)
JUDGE

06.05.2025
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No