



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

FAO-5893-2014
Reserved on 21.07.2025
Date of decision: 02.08.2025

Smt. Bhateri and others

...Appellants

Versus

Jai Bhagwan and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. P.S. Chandel, Advocate for the appellants.

Mr. Sumit Sangwan, Advocate
for respondents No.1 and 2.

Ms. Manvi Verma, Advocate for
Mr. Rajneesh Malhotra, Advocate
for respondent No.3-Insurance Company.

SUDEEPTI SHARMA, J.

1. The case is listed before this Court for referral to the “Special Mediation Drive-Mediation ‘For the Nation’ List”.
2. Learned counsel for the parties contend that the matter cannot be referred to Mediation and Conciliation Centre of this Court since the present appeal is filed against award dated 03.03.2014 whereby the claim petition filed by the appellants/claimants was dismissed.
3. Accordingly with the consent of both the parties, the matter is taken up for final hearing today itself.

FAO-5893-2014

1. The present appeal has been preferred against the award dated 03.03.2014 passed in the claim petition filed under Section 166 of the Motor



Vehicles Act, 1988 (for short 'the Act') by the learned Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal') vide which, the claim petition filed by the appellants/claimants, who are the legal heirs of the deceased-Jai Singh was dismissed.

FACTS NOT IN DISPUTE

2. The brief facts of the case as mentioned in the claim petition are that on 27.4.2013, Tinku and his father Jai Singh loaded wheat turi (fodder) from the house of Sita Ram in a tractor No.HR-19G-6967 for unloading the same at Rohat, District Rohtak. After unloading, they were returning on the said tractor being driven by respondent no.1. Tinku was sitting on one side of the mudguard of tractor, whereas, Jai Singh was sitting on other side of the mudguard of tractor. At about 12.00 night, when the tractor reached near a temple of village Bigowa, one speed breaker was found ahead and instead of slowing down the speed of tractor, respondent No. 1 kept on driving it rashly, negligently and at a high speed and while crossing the speed breaker, it took a jump, due to which, Jai Singh fell down in front of big tyre of the tractor. Jai Singh was ragged and suffered multiple and grievous injuries. After the accident, Jai Singh was taken to Vardhan Hospital, Dadri from where, he was referred to PGIMS, Rohtak, where he was declared dead by the doctor. Regarding the accident, FIR No.148 dated 28.4.2013, under Sections 279 and 304-A IPC was registered against respondent No.1 at Police Station, Sadar Dadri.

6. Upon notice of the claim petition, respondents appeared and filed their separate written replies denying the factum of accident/compensation.



7. From the pleadings of the parties, the Tribunal framed the following issues:-

1. Whether the accident causing death of Jai Singh took place on 27.04.2013 due to rash and negligent driving of tractor bearing registration No.HR-19G-6967 by respondent No.1, as alleged? OPP

2. If issue no.1 is proved, whether the claimants are entitled for compensation, if so, to what amount and from whom? OPP

3. Whether respondent No.1 was not having a valid and effective driving licence at the time of accident, if so its effect? OPR-3

4. Relief.

8. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim-petition. Hence, the claimants/appellants filed the present appeal for grant of compensation.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

9. The learned counsel for the claimants-appellants contend that the claim petition was dismissed only on the ground that the name of the driver and registration number of the offending vehicle was not there in the FIR. Therefore, he prays that the present appeal be allowed and compensation be granted to the appellants/claimants as per latest law.

10. Per contra, learned counsel for the respondents vehemently argue on the lines of the award and contend that the claim petition has rightly been dismissed. Therefore, they pray for dismissal of the present appeal.

11. I have heard learned counsel for the parties and perused the



whole record of this case.

12. The relevant portion of the award is reproduced as under:-

ISSUE No.1 & 2:-

“11. Both these issues are inter-connected and taken up together for adjudication.

12. Regarding accident, the claimants examined Tinku (petitioner no.2) eye witness as well as lodger of FIR as PW1, who filed his sworn affidavit Ex.PW1/A deposing that on 27.4.2013, he alongwith his father Jai Singh loaded wheat turi from the house of Sita Ram son of Sada Ram in a tractor no.HR-19G-6967 for unloading at Rohat, District Rohtak and after unloading, they were returning on the said tractor being driven by respondent no. 1 Jai Bhagwan. He was sitting on one side of the mudguard of the tractor, whereas Jai Singh was sitting on another side of mudguard of tractor. He further deposed that at about 12.00 midnight when the tractor reached near Mandir of village Bigowa, one speed breaker was found ahead but instead of slowing down the speed of the tractor, the respondent no.1 kept on driving it rashly and negligently and at a high speed and while crossing the speed breaker, the tractor took jump and as a result of which, his father Jai Singh fell down in front of big tyre of the tractor and was dragged and suffered multiple and grievous injuries. He further deposed that immediately, after the accident, Jai Singh was taken to Vardhan Hospital, Dadri but on account of serious condition, he was



referred to PGIMS, Rohtak and on reaching there, Jai Singh was declared dead by the doctor. He further deposed that accident was caused solely due to rash and negligent driving of respondent no.1. On his statement, FIR no.148 dated 28.4.2013, under Sections 279 and 304-A IPC was registered against respondent no. 1.

13. The learned counsel for the claimants has argued that if the statement of PW1 Tinku eye-witness as well as lodger of FIR is read in corroboration with documentary evidence i.e. Ex.P1 copy of FIR and Ex.P3 copy of post mortem report of deceased Jai Singh, it is established on record that accident in question resulting into death of Jai Singh took place due to rash and negligent driving of tractor no.HR-19G-6967 by respondent no.1. It was further argued that proceedings under Motor Vehicles Act are not akin to proceedings in a civil suit and hence strict rules of evidence are not required to be followed in this regard. It was further argued that claimants were only required to establish that deceased met with an accident due to rash and negligent driving of vehicle in question and once this fact was established, burden shifted on respondentsto show that accident did not happen in the way alleged by the claimants. It was further argued that where no evidence of any eye witness to accident is available on record, the claimants could only prove the accident but not as to how accident occurred and principle of res ipsa loquitur has to be



applied, as the accident itself tells its own story and burden shifted on non-applicant to prove that accident did not occur due to rash and negligent driving of his vehicle. But in the present case respondent no.1 driver has not stepped into the witness box to refute the factum of accident and the entire evidence of the claimants remained unrebutted on this point and hence, from every angle it is established on record that accident occurred due to rash and negligent driving of tractor in question by respondent no. 1.

On the other side, it was argued by learned counsel for the respondents that in the present case, the claimants have miserably failed to prove that accident in question resulting into death of Jai Singh took place due to sole rash and negligent driving of tractor no.HR-19G-6967 by respondent no.1. It was further argued that name of driver as well as the number of vehicle was not mentioned in the FIR and therefore, it can not be said that the vehicle was involved in the accident. It was further argued that deceased Jai Singh might have sustained injuries in a hit and run case or due to some other reason and later on, petitioners in connivance with the police have falsely implicated the respondent no.1 in the criminal case. It was further argued that PW1 Tinku was not the eye-witness of the accident in question, because had he been present at the time of accident in question, he must have disclosed the name of the driver and registration number of the



offending vehicle to the police but he did not do so and hence, the accident in question has not been proved and this claim petition is liable to be dismissed with costs.

15. As per contents of FIR (Ex.P1) got lodged by PW1 Tinku, on 27.4.2013, he and his father Jai Singh after loading fodder in the tractor of Sita Ram son of Sada Ram, caste Jat, resident of their village Samaspur went to village Rohat, District Rohtak. After unloading the fodder, they were returning back at about 11.30 p.m./12.00 midnight in the said tractor, which was being driven by its driver in a rash and negligent manner and at a high speed. His father was sitting on mudguard of the tractor, whereas he (complainant Tinku) was also sitting on other side of the mudguard of tractor. At about 12.00 midnight, when they reached within the area of village Bigowa, there was a speed breaker near temple but the tractor driver did not slow down its speed and while crossing the speed breaker, it took a jump, due to which his father (Jai Singh) fell down in front of big tyre of the tractor and sustained scratches and grievous injuries on his person. After the accident, they took his father to Vardhan Hospital, Bhiwani and from where he was referred to PGIMS, Rohtak, where he was declared dead by the doctor. Complainant Tinku has stated that accident took place due to rash and negligent driving of tractor driver and prayed that legal action be taken against him. In the FIR, complainant Tinku (PW1) did not disclose the registration number of the



tractor and name of the driver and therefore, FIR Ex.P1 was registered against an unknown tractor and unknown driver. In the FIR Ex.P1, complainant Tinku has specifically stated that in the tractor of Sita Ram son of Sada Ram, caste Jat, resident of their village Samaspur they had loaded the fodder, meaning thereby, Sita Ram son of Sada Ram, resident of the village of claimants was the owner of the tractor, but in this claim petition, the name of the owner of the tractor is mentioned as Sombir Singh son of Randhir Singh, resident of village Chhapar. Hence, the claimants have given altogether different name of the owner of offending tractor in the claim petition. This is a major discrepancy and creates a doubt about the story put-forth by the claimants regarding the accident in question.

16. Further, as discussed above, the FIR Ex.P1 was registered against an unknown tractor and unknown driver. The alleged accident in question took place on 27.4.2013 at about 12.00 midnight, whereas FIR was lodged on 28.4.2013 at 5.00 p.m and thus, there was sufficient time for complainant Tinku to disclose the name of driver of the offending tractor and its registration number. The claimants have not produced any documentary evidence on record to show whether respondent no.1 was challaned by the police for causing the accident in question. No doubt, the claimants were only required to establish that deceased met with an accident due to rash and negligent driving of vehicle in question and once this fact was



established, burden shifted on respondents to show that accident did not happen in the way alleged by the claimants, but in the present case, the claimants have miserably failed to establish that deceased Jai Singh met with an accident due to rash and negligent driving of tractor no.HR-19G-6967 by respondent no.1. PWI Tinku in his cross-examination has stated that they three persons were travelling on the tractor including the driver. He further stated in cross-examination that they had been taken by the driver of the tractor for labour work. When PWI Tinku used to be taken by the driver of the tractor for labour work, then he must have been knowing his name or address but as discussed above, he did not disclose this fact in the FIR. More over, it is also not the case of the claimants that after the accident, tractor driver had fled away from the spot alongwith his vehicle, rather in FIR Ex.P1 it was stated by complainant Tinku that after the accident, they took deceased Jai Singh to Vardhan Hospital, Dadri, meaning thereby he was also accompanied by the driver while taking Jai Singh to the hospital. Hence, in such circumstances, the statement of PWI Tinku, alleged eye-witness of the accident is not reliable and trustworthy and same cannot be believed. Except the bald statement of PWI Tinku which is held unreliable, the claimants have not produced any other evidence on record to connect the respondent no.1 Jai Bhagwan and tractor no. HR-19G-6967 with the alleged accident.



17. In view of my above discussion, I am of the considered opinion that the claimants have miserably failed to prove that accident in question resulting into death of Jai Singh was caused due to rash and negligent driving of tractor no.HR-19G-6967 by respondent no.1 Jai Bhagwan.

18. When the accident in question resulting into death of Jai Singh has not been proved, the claimants are not entitled to any amount of compensation. Hence, issues no.1 and 2 are decided against the claimants.”

13. A perusal of the impugned award reveals that learned Tribunal has erroneously dismissed the claim petition filed by the claimants/appellants on the erroneous ground that the claimants/appellants failed to establish that the accident occurred due to rash and negligent driving of the offending vehicle, by respondent No. 1.

14. From the record, it is evident that FIR (Ex. P1) was lodged promptly on the very next day of the accident, i.e., on 28.04.2013. A bare reading of the FIR reflects that the facts regarding the occurrence of the accident, the manner in which it took place, and the consequent death of Jai Singh are duly mentioned therein. However, the learned Tribunal has wrongly discredited the FIR Ex.P-1 on the ground that name of the driver and the registration number of the offending vehicle were not mentioned and that there was a delay in lodging the FIR.

15. It is a settled position of law that the FIR is not expected to be an encyclopedia of facts. The purpose of lodging FIR is merely to set the criminal law in motion. Non-mentioning of the registration number of the



vehicle or the name of the driver at the initial stage is not fatal to the claim, particularly when those details have subsequently come on record and have not been rebutted. In this regard, reliance can be placed on the judgment of this Court in FAO-2603-2007 titled as ***Rajbir Singh Vs. Ram Bhagat and another***, decided on 30.04.2025, wherein it was held that omission to mention such details in the FIR does not, by itself, discredit the case of claimant. The relevant extract of the same is reproduce as under:-

“12. The Tribunal has erroneously placed undue emphasis on the fact that the FIR (Ex. P11), lodged on the very date of the occurrence, did not initially disclose the identity of driver or registration number of the offending vehicle. It is trite law that in cases involving motor accidents, particularly those resulting in serious bodily injuries, it is not uncommon for the victim to be unaware of the particulars of the offending vehicle at the initial stage. The law does not require the FIR to be a comprehensive narrative, nor does it mandate precise identification of the vehicle and driver at the inception. The purpose of the FIR is to set the criminal law into motion, and any subsequent identification emerging from investigation is legally sufficient to establish the involvement.

13. Indeed, the investigative process undertaken by the police culminated in the filing of a charge-sheet against respondent No.1, Ram Bhagat, under Sections 279, 338, and 427 IPC. PW-2, Mukesh Kumar, the Criminal Ahlmad from the Court of the Additional Chief Judicial Magistrate, Hisar,



categorically proved that charges have been framed against respondent No. 1 in the said criminal case and the matter is pending trial. He also proved on record the FIR (Ex. P11), the mechanical inspection reports of both motorcycles (Ex. P12 and Ex. P13), the registration certificate of the offending vehicle (Ex. P14), the driving licence of respondent No.1 (Ex. P15), and the site plan (Ex. P16). This documentary corpus, when read in conjunction with the oral evidence, clearly establishes the nexus between the accident and the rash and negligent act of respondent No.1.”

16. Furthermore, the delay in the registration of the FIR stands adequately explained. The accident occurred at around 12:00 midnight on 27.04.2013, and the FIR was registered at 5:00 PM on 28.04.2013. The author of the FIR, PW-1 Tinku, was attending to the injured in the hospital during this intervening period. Therefore, the delay, if any, is justified and does not cast any doubt on the veracity of the author of FIR. Hon'ble the Supreme Court in Ravi Vs. Badrinarayan (2011) 4 SCC 693 has categorically held that delay in lodging an FIR, if properly explained, cannot be a ground to discard the version put forth by claimant. The relevant extract of the same is reproduce as under:-

“20. It is well-settled that delay in lodging FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the Police Station immediately after an 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. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the Police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so; the contents of the FIR should also be scrutinised more carefully. If court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground.

21. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of



tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons.”

17. Moreover, adverse inference ought to have been drawn against respondent No.1 the driver of the offending vehicle who failed to appear in the witness box before the Tribunal or offer any explanation or rebuttal to the evidence led by the claimants. His absence from the witness box, despite being a necessary and material witness, speaks volumes and undermines the defence set up by the respondents. The Tribunal, however, failed to appreciate this legal presumption.

18. The testimony of PW-1 Tinku, who is both an eyewitness and author of the FIR, remains unimpeached and consistent throughout. He deposed with clarity and coherence regarding the chain of events leading to the accident. He categorically stated that the deceased, Jai Singh, was thrown off the mudguard and came under the wheel of the tractor due to the rash and negligent manner in which the respondent No.1 was driving, while crossing a speed breaker at high speed. PW-1 was subjected to lengthy cross-examination, but nothing substantial could be elicited to discredit his testimony. The version of PW-1 qua the incident remained unshaken and is corroborated by medical evidence and the FIR. Unfortunately, the learned Tribunal has unjustifiably attempted to pick holes in his testimony, without cogent reasons or legal basis.

19. It is a trite law that strict proof of accident, as required in



criminal jurisprudence, is not mandated in proceedings under the Motor Vehicles Act. The standard of proof required is that of preponderance of probability. The Hon'ble Supreme Court in **Anita Sharma v. New India Assurance Co. Ltd. (2021) 1 SCC 171** has reiterated that mechanical and overly technical appreciation of evidence has no place in motor accident claims, and the claimant's case must be examined with a practical and realistic lens. The relevant extract of the same is reproduce as under:-

“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.”

20. Additionally, the post-mortem report (Ex. P-3) confirms that



the Jai Singh died due to injuries consistent with a vehicular accident. This medical evidence further fortifies the version of claimants/appellants and corroborates the ocular testimony of PW-1.

21. In light of the above discussion, and applying the settled principles of law, it is evident that the findings returned by the learned Tribunal are perverse, legally unsustainable, and contrary to the evidence on record. The claimants/appellants have sufficiently established, on the touchstone of preponderance of probabilities, that the accident resulting in the death of Jai Singh was caused due to the rash and negligent driving of the offending tractor by respondent no. 1. In view of the above, the issue No.1 is decided in favour of appellants/claimants.

22. Now coming to the findings so rendered by the Learned Tribunal on issues No. 2 and 3. The issues No.2 and 3 were framed as under:-

Issue No.2 “If issue no.1 is proved, whether the claimants are entitled for compensation, if so, to what amount and from whom? OPP

Issue No. 3 “Whether respondent No.1 was not having a valid and effective driving licence at the time of accident, if so its effects? OPR”

23. No findings with regard to above issues were rendered by learned Tribunal. Consequently, the matter is remanded to the Ld. Tribunal to decide issues No.2 and 3 afresh, preferably within a period of three months on day to day basis from the date of receipt of copy of this judgment. The parties are directed to appear before the Tribunal on 19.08.2025.

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

02.08.2025
Yogesh

(SUDEEPTI SHARMA)
JUDGE

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