



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

FAO-826-2013 (O&M)

Reserved on :- 03.09.2025

Date of Pronouncement:-05.09.2025

New India Assurance Company Limited

... Appellant

Versus

Smt. Indira and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Ashwani Talwar, Advocate with
Mr. Nikhil Sehrawat, Advocate
for the appellant.

Mr. Tarun Yadav, Advocate
for respondents No.1 and 2.

VIRINDER AGGARWAL, J.

1. The parents of the deceased, Ashish Yadav, have filed a claim petition seeking compensation for the untimely death of their son, which occurred as a result of a motor vehicle accident.

2. Briefly stated, the facts of the case are that on the intervening night of 20/21.06.2011, Ashish Yadav was returning to his village from Gurugram on a motorcycle bearing registration No. HR-35C-3367. He was being followed by Pardeep, son of Matadeen, who was driving a Swift car (registration No. HR-36Q-3131) in the same direction towards Dharuhera. Just before reaching the Dharuhera bus stand on National Highway No. 8, an Indica car bearing registration No. HR-35E-5065, being driven at a high



speed by respondent No. 1, overtook the Swift car and collided with the motorcycle of the deceased.

21. The matter was reported to the police, and FIR No. 285 dated 07.07.2011 was registered under Sections 279 and 304-A of the Indian Penal Code at Police Station Dharuhera. Following the accident, Ashish Yadav was admitted to Medanta Hospital, Gurugram, where he remained under treatment from 21.06.2011 until he succumbed to his injuries on 06.07.2011.

2.3 At the time of his death, Ashish Yadav was 22 years old and employed as an Accounts Coordinator in a private company, drawing a monthly salary of ₹11,054/-. Accordingly, the present claim petition has been filed by his parents seeking compensation for the loss suffered due to his untimely demise.

3. The petition was contested by respondent No. 1, who denied that the accident occurred involving the vehicle driven by him. He further denied any rash or negligent driving on his part and claimed that he has been falsely implicated in the criminal proceedings.

4. Respondent No. 2 filed a written reply raising preliminary objections regarding the maintainability of the petition, as well as the non-joinder and misjoinder of necessary parties. He denied the allegations made in the claim petition and further stated that he had sold the vehicle to respondent No. 1 on 30.10.2010 through a formal agreement. Since then, he has neither had possession nor control over the vehicle, which is now owned by respondent No. 1. It was respondent No. 1 who got the vehicle released on *superdari*, and the answering respondent has no connection or involvement with the vehicle in question.



5. Respondent No.3-Insurance Company contested the claim petition by raising similar preliminary objections. It denied the averments made in the petition and further asserted that respondent No. 1 was not holding a valid and effective driving licence at the time of the accident. This, according to the Insurance Company, constituted a violation of the terms and conditions of the insurance policy, thereby absolving it of any liability to pay compensation.

6. From the pleading of the parties, following issues were framed:-

1. Whether the motor vehicle accident which took place on 21.06.2011 was caused on account of rash and negligent driving of vehicle bearing registration No. HR- 35E-5065 by respondent No. 1 resulting into death of Ashish Yadav, if so, its effect? OPP
2. If issue No. 1 is proved, whether the petitioners are entitled to receive any amount of compensation. If so, how much and from whom? OPP
3. Whether the respondent No. 1 was driving the offending vehicle in violation of terms and conditions of insurance policy? OPR
4. Whether the claim petition is not maintainable? OPR
5. Relief

7. Both parties were given opportunities to present their evidence. Subsequently, the learned Tribunal allowed the petition and awarded compensation amounting to ₹15,84,860/-, along with interest at the rate of 7.5% from the date of filing the petition until the full payment of the awarded amount.



8. Aggrieved by the award as passed by the learned Tribunal, respondent No.3-Insurance Company has preferred the present appeal challenging the said decision. Notice of the motion was duly issued, and the claimants appeared in the matter through their counsel, Sh. Tarun Yadav, Advocate. The record of the learned Tribunal was also requisitioned for perusal.

9. I have carefully heard the arguments advanced by the learned counsel representing both parties and have thoroughly examined the entire paper-book and relevant documents submitted before this Court.

10. During the arguments, the Award was challenged solely on the issue of the liability of the appellant-respondent, who is the owner-driver of the offending vehicle. The learned counsel for the insurance company contended that the learned Tribunal based its finding of liability on the testimony of PW-2, which is questionable. It was argued that Pardeep Yadav, PW-2, did not witness the accident first hand and is thus an introduced witness. Furthermore, he has admitted that he did not report the accident to anyone for a considerable period.

10.1 The learned counsel further pointed out that the claimants themselves stated that Pardeep Yadav (PW-2) informed about the accident only on 25.07.2011, whereas the final report submitted by the investigating agency under Section 173 of the Cr.P.C., showed the involvement of the offending vehicle based on an affidavit submitted on 17.08.2011. The learned Tribunal, according to the counsel, failed to address this significant contradiction in the evidence on record.



10.2 Such a material contradiction, the counsel argued, goes to the very root of the case, and therefore, the findings recorded on Issue No. 1 in the Award should be set-aside. The issue should instead be decided in favor of the appellant and the owner-driver of the insured vehicle.

11. Learned counsel for the claimant argued that there is no illegality or infirmity in the findings recorded by the learned Tribunal. It is well-established law that the Tribunal is required to decide claim petitions based on the preponderance of probabilities, and proof beyond reasonable doubt is not necessary in such matters. Pardeep Yadav (PW-2) is an independent witness who reported the involvement of the insured vehicle to the police upon learning about the death of Ashish Yadav, which occurred subsequently on 25.07.2011. Furthermore, there is no contradiction between the testimony of Pardeep Yadav (PW-2) and the final report submitted by the police under Section 173 of the Cr.P.C., a copy of which has been marked as Ex.PW3/C.

12. I have meticulously examined the entire record in detail, carefully scrutinizing all the documents, evidence, and submissions presented before me to ensure a comprehensive understanding of the case.

13. Pardeep Yadav (PW-2) has unequivocally testified that he witnessed the accident in which the offending vehicle, bearing registration No. HR-35-E-5065, collided with the motorcycle of the deceased in a rash and negligent manner. He stated that after overtaking his car, the offending vehicle struck Ashish Yadav's motorcycle. Pardeep Yadav (PW-2) further explained that he chased the vehicle for approximately eight kilometers and



was able to note its registration number. Since the incident occurred late at night, he returned to his village and resumed his daily routine.

13.1 On 25.07.2011, while visiting Mukesh Kumar's shop in Rewari to purchase cement, Pardeep Yadav (PW-2) learned about the death of Ashish Yadav, who was the son of Mukesh Kumar's maternal uncle, in a motor vehicle accident that took place on the intervening night of 20/21.06.2011 near the Dharuhera bus stand. He then conveyed the details of the accident to uncle of Mukesh Kumar over the telephone. Subsequently, the father of the deceased approached PW-2 to discuss the matter, and it was only after this that a statement was recorded with the police.

13.2 Thus, Pardeep Yadav (PW-2) informed Mukesh Kumar about the accident and the involvement of the offending vehicle on 25.07.2011. At no point did he state that he made a direct statement to the police on that same date. Rather, after sharing the information with Mukesh Kumar and the deceased's father, the latter came to him, and only then did they proceed together to the police station to record the statement. Therefore, there is no contradiction in PW-2's testimony that would warrant the rejection of his entire account.

14. The learned Tribunal has correctly held that the investigating agency submitted the final report implicating respondent No. 1, the driver of the offending vehicle. It is further established that respondent No. 1 was responsible for releasing the vehicle on *Superdari*, a fact supported by the production of the *Superdari* order marked as Ex.PW3/D. Notably, the respondent-driver did not appear as a witness to challenge the testimony of the eyewitness, Pardeep Yadav (PW-2). Consequently, the learned Tribunal



rightly drew an adverse inference against the respondent-driver, concluding that he was rash and negligent in causing the accident.

14.1 Therefore, there is sufficient evidence on record, and the findings of the learned Tribunal reflect a proper and accurate appreciation of the evidence regarding the determination of liability for the accident.

15. In view of the foregoing observations, no illegality or infirmity is found in the conclusions recorded by the learned Tribunal. The appeal lacks merit and is accordingly dismissed.

16. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

05.09.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No