



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

FAO-6791-2016 (O&M)
Reserved On: 25.09.2025
Pronounced On: 12.11.2025

Vishaw Gaurav

.....Appellant

Versus

Sarabjit Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Jagdish Singh Mahal, Advocate
for the appellant.

Mr. R.C. Kapoor, Advocate
for the respondents.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 16.02.2016 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 whereby the claim petition filed by the claimant/appellant before the learned Motor Accident Claims Tribunal, Gurdaspur (for short, 'the Tribunal') was dismissed.

FACTS NOT IN DISPUTE

2. That on 25.08.2008, injured/claimant was going from Gurdaspur to Qadian on his Bajaj Pulsar motorcycle bearing no. PB-58-D-9971 followed by Rakesh Kumar son of Sain Dass resident of village Rania P.O. Dhariwal on his car and when they reached near bypass which falls in the jurisdiction of Bariar Chowki P.S. Sadar, from the opposite side, one truck bearing registration no. PB- 08-T-1702 being driven by respondent no.1 rashly and negligently without blowing any horn and in very high speed



came and struck the same in the motorcycle of the injured. On account of which, the injured/ claimant received multiple injuries on his person and his right leg has totally been fractured. The accident was witnessed by Rakesh Kumar and the other people collected at the spot and Rakesh Kumar brought the injured to Sukhmani hospital near bypass Gurdaspur, where the first aid was given to the injured and the doctor of the Sukhmani hospital was not available at that tie. As such, the injured was referred by the attendant of the hospital to Amandeep Hospital, Amritsar on account of serious right leg injuries and other injuries on the person of injured/claimant. The injured was admitted to Amandeep Hospital, Amritsar, where he remained admitted for the plenty of days and surgery of the right leg of the claimant was done, where the injured and his family spend more than Rs.20 lacs on his treatment. The DDR against the respondent no.1 has also been lodged in the concern police station dated 28.08.2008 vide rapt no.15. Before the accident, the claimant was able bodied person of 26 years and he become student of Punjab Technical University Learning Centre, Batala and he was also running a business of construction as Thekedaar and on account of the accident, his study has been spoiled and his business has been ruined. The whole family of the injured was dependent upon him as he is the only breadwinner of the family. On account of the accident, he is unable to walk properly and become dependent upon his parents. The injured/claimant is still getting treatment from the orthopedic surgeon. It has been prayed that the claimant may be awarded compensation to the tune of Rs.20 lacs along with interest 12% per annum from the date of accident till realization of the amount as compensation.



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

“1. Whether Vishaw Gaurav claimant received injuries on account of rash and negligent driving of truck bearing registration no.PB-08-T-1702 by respondent no.1? OPP

2. If issue no.1 is proved, whether claimant is entitled to the grant of compensation? If so, how much and from whom? OPP

3. Whether the driver of the offending vehicle was not holding a valid and effective driving license at the time of alleged accident? OPR-2.

4. Whether the offending vehicle was plying in contravention of terms of the policy of Insurance? OPR-2

5. Relief.”

After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim-petition. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

5. Learned counsel for the appellant–claimant submits that the learned Tribunal erred in dismissing the claim petition solely on the basis of the Daily Diary Report (DDR), wherein it was recorded that a compromise had been effected between the parties and that the complainant had expressed unwillingness to pursue the criminal proceedings. It is contended that such an observation in the DDR cannot, by itself, be a valid ground to deny compensation under the Motor Vehicles Act. Therefore, he prays that the present appeal be allowed and the compensation be awarded to the claimant-appellant as per the latest law.

6. *Per contra*, learned counsel for the respondent-Insurance Company, however, vehemently argues that the claim petition has rightly been dismissed. He prays for dismissal of the appeal.



7. I have heard learned counsel for the parties and perused the whole record of this case.

8. Before proceeding further, it is necessary to reproduce the relevant portion of the award, which reads as under:-

“9. Onus to prove this issue was upon the claimant and in order to discharge the onus, the claimant himself stepped into the witness box as CW.1 and fully reiterated his version as stated in the claim petition. Further, in order to prove his version, the claimant also examined CW.2 Sh. Rakesh Kumar, who also supported and substantiated his version.

10. To rebut the evidence of the claimants, albeit none of the respondents dare to step into the witness box, but they have tendered into evidence attested copy of the DDR Exhibit R.8.

11. Although, claimant has deposed while appearing in the witness box as CW.1 that the alleged accident took place due to rash and negligent driving of respondent no.1, which resulted that he received multiple injuries on his person and CW.2 Sh. Rakesh Kumar has supported and corroborated his version, however, no reliance can be placed upon their statements as perusal of the attested copy of DDR Exhibit R.8, which was, admittedly got recorded by CW.2 Rakesh Kumar. who is none else than the brother in law of the claimant, it finds that it has been recorded in the DDR that after the accident the matter stood compromised between the claimant and driver-cum- owner of the vehicle i.e. truck bearing registration no. PB-08-T-1702 as none was at fault. Since it has been come on record that there was no fault of the respondent no.1 in the alleged accident, therefore, no reliance can be placed upon the deposition



of CW.1 and CW.2 to conclude that the accident took place due to rash and negligent driving of the accused, which resulted that the claimant received multiple injuries. The version mentioned in the DDR (attested copy whereof proved on record as Exhibit R.8) is the prompt one being recorded immediately after the accident in question. The claimant cannot wriggle out from the version mentioned in the DDR being recorded by his brother in law, who also appeared in the witness box as CW.2, much less when it is not the case of the claimant that a wrong DDR got recorded by his brother in law namely, Sh. Rakesh Kumar. It appears that out of greed and on the advice of some legal luminary, the present claim petition has been moved by the claimant. In the result, the Tribunal holds that even if, the case of the claimant that the offending vehicle was driver by respondent no.1 was true then also the claimant had to establish negligence of the offending vehicle and for want of cogent, convincing and reliable evidence in this regard, no finding can be recorded against the respondents and in favour of the claimant. With these observation, this issue is decided against the claimant.

Issue No.2.

12. In view of the findings arrived at issue no.1, the court, therefore, holds that the claimants are not entitled to seek any compensation in the present claim petition from the respondents and this issue is accordingly decided against the claimant.”

9. From a perusal of the impugned award, it is evident that the learned Tribunal has rightly returned its findings on the issue of negligence after a meticulous and judicious appreciation of the material available on record.



10. It is borne out from the record that the Daily Diary Report (DDR), marked as Exhibit R-8, was lodged promptly after the accident at the instance of CW-2 Sh. Rakesh Kumar. A bare perusal of the contents of the said DDR reveals that it is categorically recorded therein that the matter stood compromised between the claimant and the driver-cum-owner of the offending vehicle, i.e., Truck bearing registration No. PB-08-T-1702, as none was found to be at fault. It is an admitted factual position that it is not the case of the claimant/appellant that the said compromise was not effected or that the DDR was wrongly or falsely recorded by CW-2 Rakesh Kumar.

11. It is indeed significant to note that CW-2 Rakesh Kumar, the author of the DDR and an alleged eyewitness to the accident, while stepping into the witness box, completely resiled from his earlier version. Contrary to the contents of the DDR, he deposed during trial that the accident had occurred due to the rash and negligent driving of the truck driver (respondent no. 1). However, there is nothing on record to explain the reasons for this material contradiction or to justify the departure from his earlier statement recorded contemporaneously in the DDR. The learned Tribunal has, therefore, rightly observed that such a volte-face on the part of CW-2 appears to have been made with an oblique motive, evidently to support the false claim of the claimant and to extract monetary compensation from the respondent-driver.

12. This Court is mindful of the settled legal position that proceedings under the Motor Vehicles Act are benevolent in nature and intended to provide just and fair compensation to the victims of road accidents. Nonetheless, it is equally well-established that the burden lies on



the claimant to establish, at least on the touchstone of preponderance of probabilities, that the accident occurred due to the rash and negligent act of the driver of the offending vehicle. The requirement of proof of negligence, though not to the extent of proof beyond reasonable doubt, must nevertheless rest on cogent, credible, and reliable evidence.

13. In the present case, the claimant has miserably failed to discharge the said onus. The contemporaneous record in the form of the DDR (Ex. R-8) completely belies the subsequent oral testimony of CW-1 and CW-2, rendering their depositions unworthy of reliance. The promptness of the DDR and the fact that it was lodged by none other than the claimant's own brother-in-law further strengthens its evidentiary value. There being no explanation as to why the contents of the DDR should be disbelieved, the Tribunal has rightly held that the claimant failed to establish negligence on the part of respondent no. 1.

14. This Court finds no illegality, perversity, or infirmity in the findings recorded by the learned Tribunal. The conclusions drawn are well-reasoned, based on sound appreciation of evidence, and call for no interference in appeal.

15. In view of the foregoing discussion, this Court finds no merit in the present appeal, which is accordingly **dismissed** being devoid of substance.

16. Pending applications, if any, also stand disposed of.

12.11.2025

Sahil

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No