



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

**FAO-4640-2025 (O&M)
Reserved on: 08.08.2025
Date of decision: 22.08.2025**

SBI GENERAL INSURANCE COMPANY LTD.

..Appellant

Versus

ANJU BALA AND ORS.

..Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Sanjeev Kodan, Advocate
for the appellant.

SUDEEPTI SHARMA, J.

1. The present appeal has been filed by the appellant-Insurance company against the award dated 26.05.2025 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Bathinda (for short, 'the Tribunal'), wherein the appellant-Insurance company was fastened with the liability to pay the compensation to the claimants along with interest @ 7.5% per annum from the date of filing of claim petition till recovery.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 03.06.2024, Ashish Goyal alongwith Ankit Goyal (respondent No.3), Lovish Bansal and Nitin Goyal were coming from Chandigarh to Bathinda in Car bearing registration No. PB-03BM-9964 (hereinafter referred as 'the offending vehicle'). At that time, car was being driven by Ankit Goyal(respondent No.3) rashly and



negligently. Then at about 6.00 a.m, when they reached near Gurdev Dhaba, Tapa, respondent No.3 was driving the car rashly and negligently and the car turned turtle out of control and fell in the ditches of the fields and struck with the tree. The car was on very high speed and Ankit Goyal (respondent No.3) was driving the same in a rash and negligent manner and he has no control on the same, but he narrated the story to police in the DDR to the effect that stray animals suddenly came on the road and respondent No.3 suddenly applied brakes and the car got out of control and went into the fields and thereafter struck with trees. It is further averred that this itself speaks that the above said car was on very high speed and Ankit Goyal was driving the same in a rash and negligent manner and he has no control on the same. The accident took place due to sole negligence of respondent No.3 Ankit Goyal. The police of Police Station Tapa Mandi, in connivance with respondents, did not register the FIR and only registered the DDR on the sole statement of respondent No.3. Claimants also met the Police officials, but all in vain and police did not register the FIR against the driver. The said occurrence was witnessed by Sukhdarshan Kumar son of Chet Ram, Varinder Kumar son of Bhim Sain and Subhash Kumar son of Tarsem Chand and they duly reported the matter to the police, but police did not take the correct statement of the witnesses, rather they took the signatures on blank papers with the assurance that they will register the FIR against driver, but they only registered the DDR on the sole statement of respondent No.3. It is further averred that Ashish Goyal, occupant of the offending vehicle, received multiple injuries on his person and died at the spot. It is categorically pleaded that the accident took place due to sole negligence of respondent No.3, while driving the offending vehicle. The dead-body of the



deceased was subjected to post-mortem examination at Civil Hospital Barnala on 03.06.2024

3. Upon notice of the claim petition, the respondents appeared and contested the claim petition by filing separate written statements denying the factum of accident/compensation.

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

1. Whether Ashish Goyal son of late Rajinder Goyal died due to accident caused by respondent No.3 Ankit Goyal, while driving Car bearing registration No.PB-03BM-9964 rashly and negligently? OPP.

2. If Issue No.1 is proved, whether the claimants are entitled to seek any compensation. If so, to what extent and from which of the respondents?OPP.

3. Whether respondent No.3, alleged driver of Car No.PB03BM-9964 was not holding a valid driving license to drive the said vehicle at the time of alleged accident?OPR-1.

4. Whether respondent No.2, alleged owner of Car No.PB03BM-9964 was not holding a valid registration certificate, fitness certificate and insurance of the vehicle in his name at the time of alleged accident?OPR-1.

5. Relief

5. Thereafter, both the parties led their evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the liability to pay compensation was fastened upon the appellant-Insurance Company.

**SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT:**

7. Learned counsel for the appellant–insurance company contends that issue No.1 has wrongly been decided since the claimants could not prove rash and negligent driving. Therefore, he prays that the present appeal be allowed.

8. I have heard learned counsel for the appellant and perused the whole record of the case.

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

“11. Onus to prove this issue was on the claimants. In order to establish that deceased Ashish Goyal died in an accident occurred on 3.6.2024, caused by respondent No.3 Ankit Goyal, while driving the offending vehicle, rashly and negligently, the claimants are relying on the testimony of Subash Kumar, who is said to be the eye witness of the occurrence and while appearing in the witness box as CW-1, he categorically testified that on 3.6.2024, deceased Ashish Goyal alongwith Ankit Goyal(respondent No.3), Lovish Bansal and Nitin Goyal were coming from Chandigarh to Bathinda in the offending car, being driven by respondent No.3 Ankit Goyal rashly and negligently. It was at about 6.00 A.M, when they reached near Gurdev Dhaba, Tapa Mandi, at that time, respondent no.3 was driving the car rashly and negligently and the car turned turtle out of the control and went in the ditches of the field and struck with the tree. He further stated that the car was on very high speed and respondent No.3 was driving the same in a rash and negligent manner and he has no control on the same, but he narrated the story to the police in DDR as stray animals came on the road and respondent No.3 suddenly applied brakes and car got out of control and went into the fields and struck with trees. He further



stated that the accident had taken place due to rash and negligent driving of Ankit Goyal, driver of the offending vehicle. The police of Police Station Tapa Mandi, in connivance with respondents, did not register the FIR and only registered the DDR on the sole statement of respondent No.3. Claimants also met the police party, but police did not register the FIR against the driver. He further deposed that the said occurrence was witnessed by him, Sukhdarshan Kumar and Varinder Kumar. They have duly reported the matter to the police, but the police did not take the correct statement of the witnesses, rather they took the signatures on blank papers with the assurance that they will register the FIR against the driver, but they only registered the DDR. Learned counsel for the claimants also tendered into evidence copy of postmortem of Ashish Goyal as Ex.C1 and attested copy of DDR No.13 dated 3.6.2024 as Ex.C2.

12. Learned counsel for claimants has contended that from the above referred documentary as well as oral evidence available on the file, it has been duly proved that Ashish Goyal died in a road side accident occurred on 03.06.2024 due to rash and negligent driving of respondent No.3 Ankit Goyal, while driving Car bearing No.PB-03BM-9964. 13. Whereas, on the other hand learned counsels representing the respondents contended that respondent No.3 Ankit Goyal, driver of offending vehicle, got lodged the DDR that the occurrence took place, due to stray animals came on the road and the driver of the offending vehicle suddenly applied brakes and the car became out of control and went into the fields and struck with trees. However, no FIR was ever lodged against respondent No.3. As such, the respondents are not liable to pay any compensation to the claimants. Learned counsel for respondent No.1 also placed reliance on the



case law titled as Mohit and others Vs. Prem Singh and another, FAO 550 of 2022, Decided on 04.04.2024, Sunita & Ors. Vs. Rajasthan State Road Transport Corporation & Anr. Civil Appeal No.1665 of 2019, Decided on 14.2.2019, Law Finder Doc ID # 1368079, Sukhwinder Kaur & Ors. Vs. Kapil Dev and others, FAO-1631 of 2007, Decided on 26.03.2025, Harmail Singh and Anr. Vs. Mandeep Singh and ors. FAO No.3597 of 2009, Decided on 25.9.2019, Law Finder Doc. ID # 1614847 & Ritu Rani and another Vs. Amarjit Singh @ others, FAO-2521 of 2013, Decided on 06.09.2017.

14. I have considered the rival contentions of both the sides and have perused the file carefully with their able assistance. 15. Before proceeding further, I would like to refer to the case laws regarding the proof of rash and negligent act of driver of the offending vehicle in a motor accident claim petition. It has been held by Hon'ble Punjab and Haryana High Court in Varinderjit Singh Vs. Tarjinder Singh and Ors., 2008(1) RCR (Civil) 67 that

“Tribunal cannot act as criminal Court and demand proof of accident, beyond any shadow of reasonable doubt. Under the scheme, incorporated under the Motor Vehicle Act, relating to the inquiries by the Motor Accident Claims Tribunal, the proceedings are summary in nature and strict rules of evidence are not applicable. The job of the Tribunal is to ascertain as to whether the accident has been caused out of use of Motor vehicle”

Further in Gurdeep Kaur Vs. Tarsem Singh, 2008(2) RCR (Civil) 774, Hon'ble Punjab and Haryana High Court has held that:

“Fatal Motor Accident. Onus to prove accident and negligence Held-In a claim petition under the



Motor Vehicles Act, the evidence should not be scrutinized in the manner as is done in a civil or in a criminal case. The proceeding's before the Tribunal, are of the nature of summary enquiry, whereas, in a criminal case the rule is of proof beyond reasonable doubt and in a civil case the rule is preponderance of probabilities. If, there is some evidence before the claim Tribunal to prove a fact, no nicety, doubt or suspicion should weigh with it, in deciding in a Motor Accident Claims Case”

16. Thus, the law is well settled regarding the proof of rash and negligent driving of the driver in a claim petition, filed before the Motor Accident Claims Tribunal to the effect that the evidence should not be scrutinized in the manner as is done in a civil or in a criminal case. In a claim petition, filed before the Tribunal, proceedings are summary proceedings and Tribunal cannot act as criminal Court and demand proof of the accident beyond reasonable doubt.

17. In the present case, in order to prove the accident eye witness of the occurrence namely Subash Kumar while appearing in the witness box as CW-1 has categorically deposed regarding the manner, in which, the accident took place, proving the negligence on the part of respondent No.3, to have caused the accident, in question. CW-1 was subjected to cross-examination by learned counsel appearing on behalf of the contesting respondents, but despite that, respondents could not extract anything substantial in his cross-examination, so as to discredit his version. As against the said evidence, respondent No.3 has not himself stepped into the witness box to deny the factum of the accident, as mentioned by the claimant. So much so that the other respondents have



also not taken pains to seek the summoning of respondent No.3 as a witness, to deny the factum of the accident.

*18. No doubt, in the DDR, it is stated that the accident was on account of stray cattle coming on the road, but in **FAO No.6207 of 2012, decided on 27.11.2012, titled as Future General India Insurance Company Limited Vs. Sukhjeet Kaur @ Charanjeet Kaur and others**, Hon'ble High Court has held that it will be purely a disaster to think that the entry in DDR would conclude the finding of rash and negligent driving in a motor accident. In the instant case, it is evident from the DDR that when the offending vehicle reached near Gurdev Dhaba, Tapa Mandi, stray animals came on the road and to save the said animals, driver of the offending vehicle applied brakes, whereby the car became out of control, fell into the ditches and struck against the trees, due to which, respondent No.3 received injuries on his person and Ashish Goyal died in the accident, in question. In **FAO No.5692 of 2019, decided on 16.9.2019, titled as New India Assurance Company Limited Vs. Somti Devi and others**, Hon'ble High Court has observed that the very fact that driver of the offending vehicle could not control the car on appearance of a stray cattle, prima facie, proves rashness and negligence on his part. In **Harmesh Kumar @ Ramesh Kumar Vs. Inderjit Singh and others, 2014(3) RCR(Civil), 408**, wherein also, the accident had purportedly taken place in an attempt to avoid stray cattle and the following observations were made:-*

“Consequently, yet another claimant would always have a right to contend that the drivers of the respective vehicles had been negligent in not being tactful to avoid hitting a cattle and still save themselves from the situation of a collision. All accidents have a latent quality of want of care in



some way. Negligence cannot be attributed to any person other than a human agency. A driver or passenger cannot say that an animal was negligent for it is illogical and does not come within the realm of legal reasoning. The reasoning is that any person that drives must factor his own driving skills and not looking for excuses of how another agency that is not human has created a situation that had diminished his own driving skills. Mechanical failure or nature's intervention are different and wherever such factors raised, they must be pleaded and proved. That is how we must approach an issue where a cattle crosses the road.”

Further more, in FAO No.6474 of 2018, decided on 18.7.2019, titled as National Insurance Company Limited Vs. Gurpreet Kaur and others, the accident had happened suddenly due to stray cattle coming in front of both the cars. In that context, Hon’ble High Court has held as follows:

“Even if it is taken that the accident had happened on account of a stray animal suddenly appearing on the road and on account of glare of lights, the drivers being unable to see clearly and control their respective cars but then both the car drivers cannot be given clean chit in the manner saying that they were not at fault in happening of the accident. The car drivers should have been cautious and careful, while driving their respective cars, alive to such like situation that might have arisen, as a result of some human being, animal or article suddenly appearing in front of the car on the road and then to apply the brakes in time. The very fact that they were unable to control their cars well in time and the two cars had hit each other



head on goes to show that both of them contributed to the happening of the accident.”

Emphasis supplied

The ratio of the aforesaid law is fully applicable to the facts and circumstances of this case.

19. In view of the aforesaid discussion, it stands established that the accident took place due to rash and negligent driving of offending vehicle, being driven by respondent No.3, due to which, Ashish Goyal died. The case law cited by the learned counsel for respondent no.1 are not applicable to the facts of the present case and are quite distinguishable. Thus, Issue No.1 is decided in favour of the claimants.”

10. A perusal of the impugned award makes it evident that the learned Tribunal has meticulously appreciated both the oral and documentary evidence adduced by the parties and has rightly recorded a finding that the accident in question occurred due to rash and negligent driving of the offending vehicle by respondent No.3.

11. The testimony of Subash Kumar (CW-1), eyewitness to the occurrence, is of decisive evidentiary value. He narrated in detail the manner in which accident occurred and specifically attributed culpable rashness and negligence to respondent No.3. His account was subjected to lengthy and incisive cross-examination at the hands of the respondents, yet his version remained consistent, coherent and unimpeachable, thereby inspiring the confidence of this Court. His testimony, therefore, stands as reliable and credible proof of the manner of the accident.

12. It is pertinent to note that the DDR was lodged solely at the instance of respondent No.3, wherein he attempted to shift the cause of the accident to the sudden appearance of stray cattle. Such a plea, however,



cannot absolve the driver of culpability. It is settled position of law that in proceedings under the Motor Vehicles Act, the standard of proof is not beyond reasonable doubt but the test of preponderance of probabilities. Mere reliance on a DDR entry cannot displace unimpeached ocular testimony, nor can it foreclose the duty of the Tribunal to examine negligence on the basis of the overall evidence on record.

13. Judicial precedents have consistently held that a driver cannot take refuge in the excuse of stray animals or sudden obstructions to evade liability. Every driver is under a bounden duty to anticipate foreseeable hazards on the road and to exercise due control and vigilance. The very fact that the vehicle overturned, veered off the road into the fields and struck a tree, resulting in the death of Ashish Goyal, is by itself demonstrative of culpable rashness and conscious disregard of the duty of care incumbent upon respondent No.3. The doctrine of *res ipsa loquitur* squarely applies, for the nature of the accident itself speaks volumes of the lack of reasonable care and skill in the operation of the vehicle.

14. The learned Tribunal has thus rightly rejected the arguments of appellant-Insurance Company and has placed reliance on cogent oral evidence and well-settled legal principles.

15. Accordingly, this Court finds no perversity or illegality in the findings recorded by the learned Tribunal. The reasoning is well-founded in law and supported by cogent evidence. No grounds are made out to warrant interference by this appellate Court.

16. Resultantly, the present appeal stands dismissed being devoid of merit.



17. Further it is hereby directed that the statutory amount of Rs.25,000/- deposited by the appellant at the time of filing of appeal in the Registry of this Court be returned to him.

18. Pending miscellaneous applications, if any, are also disposed of.

August 22nd, 2025

Ayub

(SUDEEPTI SHARMA)
JUDGE

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