IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1220-2022 (O&M)

PAWAN KUMAR

..Appellant

Versus

NEELAM AND ORS.

..Respondents

Reserved on: 05.05.2026
Pronounced on: 14.05.2026
Uploaded on: 19.05.2026

Whether only the operative part of the judgment is pronounced? *NO*
Whether full judgment is pronounced? *YES*

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Roopak Bansal, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for respondents No.1 to 3.

None for respondents No.4 and 5.

Mr. Punit Jain, Advocate
for respondent No.6-Insurance Company.

SUDEEPTI SHARMA, J.

1. The present appeal has been filed by the appellants/driver-cum-owner of the offending vehicle against the award dated 01.11.2021 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal'), wherein appellant/driver-cum-owner of the offending vehicle was fastened with the liability to pay the compensation of Rs.21,31,900/- to the respondents No.1 to 5/claimants along with interest @ 7.5% per annum on account of death of Ram Mehar in a Motor Vehicular Accident, occurred on 27.11.2018

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BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 27.11.2018, Ram Mehar (since deceased) along with Suresh (PW2) son of Om Parkash, resident of Shiv Puri Colony, Jind, Vinod son of Karam Dass, resident of Badsikri and Satish son of Dhanpat, resident of Raj Nagar, Daya Basti, Jind had gone to load dry fodder from village Churpur on Tractor No.HR-31H-8428. After they had collected the fodder and had loaded it into the Tractor, they started back for Jind. It is the case of the claimants that Ram Mehar was sitting on the right side mudguard of Tractor, which was being driven by respondent No.1 Pawan Kumar in rash and negligent manner and at a high speed. Driver of Tractor i.e. Pawan Kumar on account of reckless driving lost control over his vehicle, as a result of which, the Tractor turned turtle. The passersby who gathered near the site pulled out Ram Mehar and other injured who had slid underneath the Tractor. It is also the case of the claimants that all the passengers sitting on the Tractor had requested Pawan Kumar many a times to slow down the pace and to drive the vehicle in accordance with the traffic norms, but he did not pay any heed. Unfortunately, in the accident, Ram Mehar suffered multiple serious injuries, could not bear the brunt of those injuries and passed away while being rushed to General Hospital, Jind. Other injured were also shifted to General Hospital, Jind but on account of delicate medical condition, Satish and Suresh were referred to PGIMS Rohtak. Police authorities were intimated, who reached General Hospital, Jind, recorded statement of eyewitness Suresh (PW2), on the basis of which, a formal case vide FIR no.164 dated 28.11.2018 u/s 279, 337 and 304-A of Indian Penal Code was registered at Police Station, Alewa. Claimants who are heart broken wife, minor children and parents respectively of deceased

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have specifically averred that the accident in question had taken place due to rash and negligent driving on the part of respondent No.1 who was driving vehicle i.e. Tractor No.HR31H-8428 in reckless manner It is further their stand that deceased a young man of 35 years of age was a labourer by profession and was earning Rs.20,000/- per month. They all were dependent upon him for their livelihood and sustenance. Due to his unfortunate death, not only financially but emotionally as well they have suffered irreparable loss and have been deprived of his love and affection for all times to come. Claimants also claimed to have spent Rs.1 lakh on transportation and performing last ceremonies of deceased. With this backdrop, claimants claimed compensation to the tune of ₹ 60/- lakh with interest @ 18% per annum thereon from the date of filing of petition till its realization.

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

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

> *"1. Whether the accident in question was caused by respondent No.1 while driving Tractor bearing registration No.HR-31H-8428 in a rash and negligent manner causing death of Ram Mehar son of Raja Ram, as alleged?OPP.*
>
> *2. If issue No.1 is proved, whether the petitioners are entitled to any compensation and if so, to what extent and from whom? OPP.*
>
> *3. Whether the respondent No.1 had violated any term and condition of the insurance policy?OPR-2.*
>
> *4. Relief."*

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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 respondents No.1 to 5/claimants. However, the appellant/driver-cum-owner of the offending vehicle was held liable to pay compensation. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:

7. Learned counsel for the appellant/driver-cum-owner of the offending vehicle contends as under:-

- **i.** That the learned Tribunal has erred in holding that accident occurred due to sole rash and negligent driving of appellant.
- **ii.** That deceased was himself negligent as he was sitting on the mudguard of tractor (offending vehicle), therefore, he contends that accident occurred due to contributory negligence of deceased.
- **iii.** That learned Tribunal has erred in fastening liability upon appellant/driver-cum-owner of the offending vehicle on the premise that owner has violated the terms and conditions of the insurance policy. Therefore, he prays that the present appeal be allowed.

8. Per contra, learned counsel for respondents No.1 to 3/claimants contends as under:-

- **i.** That the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced.
- **ii.** That learned Tribunal has erred in completely absolving respondent No.6-Insurance Company to pay compensation to the appellants/claimants.

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iii. That Insurance Company should made liable to pay compensation at the first instance and liberty may be granted to respondent No.6-Insurance Company to recover the same from appellant/driver-cum-owner of the offending vehicle. In support of his contentions, he placed reliable upon order of Hon'ble Supreme Court in ***V. Renganathan v. Branch Manager, United India Insurance Company Ltd. and another, 2023 ACJ 623.***

He, therefore, prays that the present appeal be dismissed.

9. Learned counsel for respondent No.6-Insurance Company vehemently argues on the line of award and prays for dismissal of the present appeal.

10. I have heard learned counsel for the parties and perused the whole record of the case with their able assistance.

11. A perusal of award reveals that the findings returned by the learned Tribunal on Issue No.1 do not suffer from any illegality or perversity warranting interference by this Court. The Tribunal has recorded a well-reasoned and cogent finding after appreciating the entire oral as well as documentary evidence available on record in its correct perspective.

12. A further perusal of award reveals that the claimants/ respondents No.1 to 5, in order to establish the involvement of Tractor bearing registration No.HR-31H-8428 and rash and negligent driving on the part of appellant-Pawan Kumar, examined PW2 Suresh Kumar, who himself was an injured eyewitness to the occurrence. PW2 categorically deposed that on 27.11.2018, he along with deceased Ram Mehar and others had gone to village Churpur for loading dry fodder on the aforesaid tractor. While returning to Jind, the tractor was being driven by appellant in a rash and

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negligent manner and at a very high speed. Owing to such reckless driving, appellant lost control over the vehicle, as a result whereof the tractor turned turtle, causing fatal injuries to Ram Mehar and injuries to other occupants including PW2 himself.

13. The testimony of PW2 inspires confidence and has rightly been relied upon by the Tribunal. A perusal of the record reveals that despite lengthy cross-examination, nothing material could be elicited to discredit his version regarding the manner of accident or the negligence attributable to appellant. His presence at the spot stands fully corroborated from the medical record as well as from the FIR lodged on his statement.

14. The learned Tribunal has further rightly relied upon FIR No.164 dated 28.11.2018 registered under Sections 279, 337 and 304-A IPC at Police Station Alewa. The FIR was recorded on the statement of PW2-Suresh Kumar, wherein not only the manner of accident was specifically narrated, but even the registration number of the offending vehicle and the name of appellant as driver thereof were clearly disclosed at the very first instance. The prompt disclosure of these material particulars lends due assurance to the claimants/respondents No.1 to 5 version and completely rules out any possibility of false implication.

15. The documentary evidence placed on record, police report under Section 173 Cr.P.C. (Ex.P4), mechanical inspection report (Ex.P5), sapurdari order (Ex.P6) and zimni order dated 26.08.2019 (Ex.P7), further corroborates the case of the claimants. The investigation conducted by the police reveals that the offending tractor was taken into possession from the spot itself, mechanically examined and, upon completion of investigation, appellant was charge-sheeted for offences punishable under Sections 279,

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337 and 304-A IPC. The post-mortem report (Ex.P2) also establishes that deceased Ram Mehar died on account of injuries suffered in the said road accident.

16. The contention regarding delay in registration of FIR has also been rightly rejected by the Tribunal. The record shows that immediately after the occurrence, the injured persons were shifted to the hospital and priority was naturally given to medical treatment. The FIR came to be registered on the following day after the statement of injured eyewitness Suresh Kumar could be recorded. In the facts and circumstances of the present case, such delay cannot be said to be fatal to the claim petition. Reliance placed by the Tribunal upon the judgment of the Hon'ble Supreme Court in ***Ravi vs. Badrinarayan and others, 2011 (4) SCC 693***, is fully justified, wherein it has been held that delay in lodging FIR cannot be treated as fatal in motor accident claim cases if cogent reasons stand explained.

17. It is also significant to note that although appellant denied the involvement of the offending vehicle, he chose not to step into the witness box to substantiate such plea. An adverse inference, therefore, has rightly been drawn against him by the Tribunal.

18. The learned Tribunal has correctly observed that proceedings under the Motor Vehicles Act are summary in nature and strict principles of proof applicable to criminal trials are not attracted. In claim petitions arising out of motor accidents, the matter is required to be adjudicated on the touchstone of preponderance of probabilities and not proof beyond reasonable doubt. The reliance placed upon the judgment of the Hon'ble

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Supreme Court in ***Anita Sharma and others vs. The New India Assurance Co. Ltd. and another, AIR 2021 Supreme Court 302*** is also apposite.

19. In view of the consistent and trustworthy testimony of the injured eyewitness, duly corroborated by the FIR, police investigation, mechanical inspection report and medical evidence, this Court finds no reason to differ with the conclusion arrived at by the learned Tribunal that the accident in question occurred due to rash and negligent driving of Tractor No.HR-31H-8428 by appellant-Pawan Kumar, resulting in the death of Ram Mehar and injuries to other occupants.

20. Accordingly, the findings recorded by the learned Tribunal on Issue No.1 are affirmed.

21. A perusal of the impugned award reveals that the learned Tribunal has committed a manifest error while determining the issue of liability. It is not in dispute that the deceased was travelling on the mudguard of the offending tractor at the time of the accident. On the said premise, the learned Tribunal proceeded to exonerate the Insurance Company from its liability to satisfy the award and fastened the entire liability upon the appellant/owner-cum-driver of the vehicle.

22. The finding of the learned Tribunal, insofar as it holds that the Insurance Company cannot be made substantively liable in view of the deceased being an unauthorized passenger on the tractor, cannot be faulted in light of the settled legal position. It is now well established that a tractor is not intended for carrying passengers and a person travelling on the mudguard thereof would not fall within the category of a person whose risk is statutorily covered under Section 147 of the Motor Vehicles Act, 1988.

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23. However, the matter does not rest here. The question as to whether, despite breach of policy conditions, the Insurance Company can still be directed to satisfy the award in the first instance with liberty to recover the amount from the owner, is no longer *res integra*. The Hon'ble Supreme Court in ***Shivraj v. Rajendra, AIR 2018 SUPREME COURT 4252***, while dealing with an identical situation where the claimant was travelling on the mudguard of a tractor, authoritatively held that though the insurer may not be statutorily liable to indemnify the insured, the Insurance Company can nevertheless be directed to pay the compensation amount to the claimant at the first instance with liberty to recover the same from the owner of the vehicle. The Hon'ble Supreme Court, relying upon earlier decisions including ***National Insurance Co. Ltd. v. Swaran Singh, (2004) 3 SCC 297***, reiterated the principle of "pay and recover" in order to subserve the object of beneficial legislation under the Motor Vehicles Act.

24. The aforesaid principle has recently been reiterated by the Hon'ble Supreme Court in ***V. Renganathan v. Branch Manager, United India Insurance Company Ltd., 2023 ACJ 623***. In the said case also, the deceased was travelling on the mudguard of a tractor. While affirming the finding that the Insurance Company was not liable to indemnify the insured on account of violation of policy conditions, the Hon'ble Supreme Court nevertheless directed the insurer to satisfy the award amount in the first instance with liberty to recover the same from the owner of the offending vehicle. The Apex Court observed that such a course was consistent with the settled position of law governing motor accident compensation claims.

25. In the present case as well, the facts stand on an identical footing. The deceased was travelling on the mudguard of the tractor and,

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therefore, there was indeed violation of the terms and conditions of the insurance policy. Nevertheless, keeping in view the law laid down by the Hon'ble Supreme Court in the judgments referred to hereinabove, the learned Tribunal erred in completely absolving the Insurance Company from the responsibility of satisfying the award.

26. Accordingly, while upholding the finding of the learned Tribunal to the extent that the Insurance Company cannot be held substantively liable to indemnify the insured owner on account of breach of policy conditions, the impugned award deserves modification to the limited extent that respondent No.6-Insurance Company shall first satisfy the award amount along with accrued interest, as determined, in favour of the claimants and shall thereafter be entitled to recover the same from the owner of the offending vehicle in accordance with law.

27. Consequently, respondent No.6-Insurance Company is directed to deposit awarded compensation along with interest, as awarded by the learned Tribunal, within a period of three months from the date of receipt of a certified copy of this judgment. Upon such payment, the Insurance Company shall be at liberty to initiate appropriate proceedings for recovery of the said amount from the appellant/owner-cum-driver of the offending vehicle.

28. Consequently, the present appeal is hereby ***partly allowed.***

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

14.05.2026 **(SUDEEPTI SHARMA)**
Ayub/Saahil **JUDGE**

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

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