

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

(239)

FAO no. 1968 of 2019(O&M)

Reserved on: 12.02.2026

Pronounced on: 19.02.2026

Uploaded on: 20.02.2026

Bhanti @ Banti And Another**... Appellants****Versus****Roshan Lal And Another****...Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Ms. Manu Sangwan, Advocate
for the appellants (Through VC).

None for respondent No.1

Mr. Rajneesh Malhotra, Advocate,
Ms. Manvi Verma, Advocate for
the Respondent No.2/New India Assurance
Company.

VIRINDER AGGARWAL,J

1. The present appeal has been preferred by the appellant assailing the award dated 25.09.2018 passed by the learned Motor Accident Claims Tribunal, Kaithal, whereby the claim petition filed by the appellant for grant of compensation on account of death of Ramesh suffered in a motor vehicle accident on 25.07.2017 came to be dismissed.

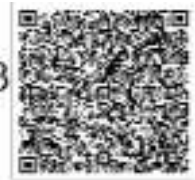
BACKGROUND FACTS

2. The brief facts of the case are that on 25.07.2017 at about 9:00 P.M., Ramesh son of Phool Singh, aged about 49 years, was present near the bridge of Kutabpur Drain, between the boundaries of village Bhanpura and Kutubpur.



Suddenly, a Swift car bearing registration No. HR-08R-2916, alleged to have been driven in a rash and negligent manner by respondent No.1 Roshan Lal, came from the side of village Bhanpura at high speed and in a zig-zag manner and struck the deceased, who succumbed to the injuries on the spot. In this respect, an FIR No.115 dated 26.07.2017 was registered at Police Station Sadar, Kaithal, under Sections 279 and 304-A IPC. Consequently, a claim petition was filed before the Motor Accident Claims Tribunal, Kaithal, seeking compensation for the death of Ramesh in the accident.

3. The learned Motor Accident Claims Tribunal, Kaithal, upon appraisal of the oral and documentary evidence, held that though the claimants established their status as legal representatives of deceased Ramesh, they failed to prove the foundational ingredients of a claim under Section 166 of the Motor Vehicles Act. The learned Tribunal found that the testimony of the alleged eye-witness Pawan (PW-2) did not inspire confidence. His presence at the spot at about 9:00 P.M. on a rural road between villages Bhanpura and Kutubpur was considered doubtful, particularly as he failed to satisfactorily explain how he could note the registration number of the vehicle in darkness. No independent witness from the locality was examined. His version was therefore treated as inconsistent, uncorroborated and unreliable. Further, the claimant-mother Bhanti @ Banti (PW-1) admittedly was not present at the scene and had no personal knowledge regarding the manner of accident or identity of the driver of Swift car No. HR-08R-2916. Her deposition was thus held to be hearsay and insufficient to establish negligence. Further, The learned Tribunal held that the FIR (Ex.PD) and the charge-sheet (Ex.PE) were not substantive evidence of rash and negligent driving. As the FIR did not conclusively establish the manner of accident or the definite involvement of the said vehicle. Furthermore,

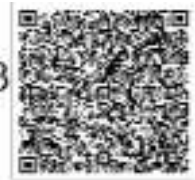


the medical evidence merely showed that the deceased sustained injuries consistent with a road accident, but it did not connect those injuries with the specific vehicle or attribute negligence to respondent No.1. In the absence of credible ocular evidence, independent corroboration, or reliable documentary material linking the accident with the offending vehicle and proving rash and negligent driving, the learned Tribunal concluded that the claimants failed to discharge the initial burden of proof. Consequently, the claim petition was dismissed and no compensation was awarded.

CONTENTIONS

4. Learned counsel for the appellants argued that the learned Tribunal committed a serious error in dismissing the claim petition despite the FIR, charge-sheet, site plan and the testimony of PW-2 which clearly established the involvement of the offending vehicle and rash & negligent driving by respondent No.1. It was further contended that the learned Tribunal wrongly disbelieved the eye-witness and failed to appreciate that in motor accident claims the standard of proof is only preponderance of probabilities and not proof beyond reasonable doubt. Learned counsel urged that the findings of the learned Tribunal were contrary to the evidence on record and that the award, being based on conjectures and surmises, deserved to be set aside with the grant of compensation as claimed.

5. On the other hand, learned counsel appearing for the respondent No.2 supported the impugned award and submitted that no interference by this Court is warranted. It was contended that the learned Tribunal has meticulously appreciated both oral and documentary evidence and has recorded well-reasoned findings of fact, which do not suffer from perversity or misapplication of law. Learned counsel argued that the claimants failed to discharge the



foundational burden of proving the involvement of the alleged offending vehicle, namely Swift car bearing registration No. HR-08R-2916, as well as rash and negligent driving on the part of respondent No.1. On these grounds, learned counsel prayed for dismissal of the appeal.

OBSERVATION AND FINDINGS

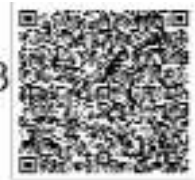
6. I have heard learned counsel for the parties and carefully perused the entire record, particularly the award rendered by the learned Motor Accident Claims Tribunal, Kaithal.

7. At the outset, on a comprehensive re-appraisal of the oral as well as documentary evidence, this Court finds no perversity or illegality in the findings recorded by the learned Tribunal. On the contrary, the record reveals serious deficiencies in the attempt of the claimants to establish the occurrence of the accident and the involvement of the alleged offending vehicle.

8. The principal reliance of the appellants rests upon the testimony of Pawan (PW-2), who has been projected as the sole eye-witness to the occurrence. During *Examination-in-chief*, he has stated as under:

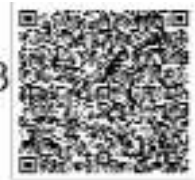
“On dt. 25-07-2017 at about 9:00 pm, I was present near drain pool of village Kutubpur, in the area of in between boundry of village Bhanpura and Kutubpur. In the mean time a swift car no. HR-08R-2916 driven by respondent no. 1 Roshan Lal s/o Ram Sawrup r/o village Kailram, came from the side of village Bhanpura, very fastly, rashly and negligently and hit Ramesh s/o Phool Singh in front of farm of Shiv Kumar Brahman, due to which he received injuries and died. The accident took place due to fault of respondent no. 1 Roshan Lal driver of swift car no. HR-08R-2916. The accident was witnessed by me.”

However, in Cross-examination, Pawan (PW2) has stated as following:



“The accident took place on 25.07.2017. On that day, I had gone to Kutubpur road for walking. I was alone at that time. The car came from the side of village Bhanpura. Ramesh was also going towards village Bhanpura. Ramesh was hit from the driver side of the car. I can not specify whether the car hit into Ramesh into front or the back. I was approximately half killa away at that time. The driver of the car halted it, at a distance of approximately half killa and stayed there for approximately five minutes. It was dark at that time. I left for my house, after leaving the deceased on the spot. I did not try to lift him or move him. Volunteered - I suddenly heard a noise. I did not go to watch him. I could not see anything due to darkness. I came to know about that incident, in the next morning. It was when I went to the Sarpanch in the next morning, for doing work, that the Sarpanch told me about the death of a person. Upon that, I told the Sarpanch that an accident had taken place in the night. The police recorded my statement after 2-4 days. I do not remember the date. My statement was recorded in the police station”.

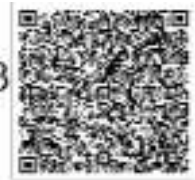
A close scrutiny of his examination-in-chief and, more importantly, his cross-examination clearly vindicates the approach adopted by the learned Tribunal in discarding his evidence. PW-2 stated that the accident took place at about 9:00 P.M. on a rural road between villages Bhanpura and Kutubpur, allegedly involving Swift car No. HR-08R-2916 driven by respondent No.1 in a rash and negligent manner. Yet, in cross-examination, he admitted that it was dark at the time and that there were no street lights at the spot. He could not satisfactorily explain the source of illumination which enabled him to read and recall the complete registration number of the vehicle. More significantly, he acknowledged that he was standing at a distance of about half a killa from the place of impact. This admission seriously undermines the possibility of his having clearly witnessed the occurrence, much less accurately noted the vehicle number in conditions of darkness. He was further unable to specify whether the vehicle struck the deceased from the front or from behind, thereby displaying



uncertainty about the very manner of impact. Such ambiguity goes to the root of his credibility. Additionally, he conceded that he left the spot after the accident and came to know about the incident only the following morning. This conduct appears unnatural for a person claiming to be an eye-witness to a fatal accident and casts grave doubt on his presence at the scene. He has stated that he came to know about accident in next morning when sarpanch informed him and death of person in accident. It proves that version of this witness in examination in chief is doubtful and he is not truthful witness. These cumulative inconsistencies, improbabilities, and material admissions significantly diminish the evidentiary value of his testimony and render it wholly unsafe to rely upon.

9. Moreover, there is also a material contradiction regarding the timing of recording of his statement by the police. While PW-2 deposed that his statement was recorded within 2-4 days of the accident, the final report under Section 173 Cr.P.C. (Ex.PD) reflects that his statement was recorded much later during the course of investigation. This discrepancy is not trivial, it strikes at the root of his credibility and raises the possibility of subsequent improvement or embellishment. These cumulative admissions and inconsistencies, emerging in cross-examination, materially weaken the evidentiary value of PW-2's testimony and fully justify the conclusion drawn by the learned Tribunal that his statement does not inspire confidence. The importance of cross-examination has been elucidated on several occasions by this Court, including by a Constitution Bench in **Kartar Singh v. State of Punjab (1994) 3 SCC 569**, which laid down as follows:

"278. Section 137 of the Evidence Act defines what cross-examination means and Sections 139 and 145 speak of the mode of cross-examination with reference to the documents as well as oral evidence. It



is the jurisprudence of law that cross-examination is an acid test of the truthfulness of the statement made by a witness on oath in examination-in-chief, the objects of which are:

(1) to destroy or weaken the evidentiary value of the witness of his adversary;

(2) to elicit facts in favour of the cross-examining lawyer's client from the mouth of the witness of the adversary party;

(3) to show that the witness is unworthy of belief by impeaching the credit of the said witness;

and the questions to be addressed in the course of cross-examination are to test his veracity; to discover who he is and what is his position in life; and to shake his credit by injuring his character.

279. The identity of the witness is necessary in the normal trial of cases to achieve the above objects and the right of confrontation is one of the fundamental guarantees so that he could guard himself from being victimised by any false and invented evidence that may be tendered by the adversary party."

.....(emphasis supplied)

Applying that principle, the contradictions and improbabilities emerging in the cross-examination of PW-2 render his testimony unsafe for reliance. The learned Tribunal, therefore, rightly discarded his statement as untruthful, uncorroborated and unreliable. Further, this Court finds that the claimant-mother (PW-1) admittedly had no personal knowledge of the occurrence and her deposition is purely hearsay, even the FIR (Ex.PD) and the charge-sheet (Ex.PE), though on record, are not substantive evidence of negligence. Moreover, the site plan (Ex.PF) also does not materially advance the claimants



10. In *Oriental Insurance Co. Ltd. v. Meena Variyal and Surender Kumar Arora v. Dr. Manoj Bisla*, the Hon’ble Supreme Court has categorically held that these essential ingredients must be affirmatively proved and cannot be presumed merely on the basis of registration of an FIR or filing of a charge-sheet.

11. In view of these glaring deficiencies, the claimants version cannot be treated as reliable. It is settled law that a claimant must establish rash and negligent driving and the involvement of the offending vehicle at least on the touchstone of preponderance of probabilities. In the present case, that burden has not been discharged. The learned Tribunal correctly held that the foundational facts were not proved. Procedural omissions or mere production of police papers cannot compensate for the absence of credible proof of the accident and negligence. Thus, the findings recorded by the learned Tribunal are based on proper appreciation of evidence and settled legal principles and do not suffer from any perversity, illegality, or misreading of evidence. This Court, in exercise of appellate jurisdiction, finds no ground to interfere with the well-reasoned award.

12. Accordingly, the appeal is found to be devoid of merit and is hereby dismissed.

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

(VIRINDER AGGARWAL)
JUDGE

19.11.2025
Saurav Pathania

(i) Whether speaking/reasoned : Yes/No
(ii) Whether reportable : Yes/No