



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-854-2024 (O&M)
Date of decision: 18.03.2026

Ram Niwas Sharma & Others

...Appellant(s)

Vs.

Hari Om & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Nitin Verma, Advocate
for the appellants.

Mr. Sachin Jangra, Advocate
for respondents No.1 and 2.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants against the dismissal of their claim petition by the learned MACT, Bhiwani (hereinafter 'the Tribunal'), vide Award dated 09.11.2023 passed in MACP 4 dated 07.01.2019 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The three claimants are the father, widow, and minor daughter of deceased Pawan Kumar, who was about 30 years old at the time of accident.

2. It was the pleaded case of the appellants before the learned Tribunal that deceased Pawan Kumar had died due to the injuries suffered by him in a motor vehicle accident that took place on 18.06.2018 due to the rash



and negligent driving of the Car bearing registration No.HR-21-H-4959 (hereinafter the “offending vehicle”) which was being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. However, learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties came to the conclusion that the appellants *“have miserably failed to prove that the accident resulting into death of Pawan Kumar, had occurred due to rash and negligent driving of Car bearing registration No.HR-21H-4959 by Hari Om, the respondent No.1, in the manner as alleged...”*. Resultantly, the Claim Petition came to be dismissed.

3. It is inter alia submitted by Id. counsel for the appellants that the Tribunal was in error in dismissing the Claim Petition as it failed to appreciate that the appellants had duly proven the accident in question from the evidence brought on record. The learned Tribunal failed to appreciate that FIR No.404 dated 20.06.2018 was registered against respondent No.1 under Sections 279, 304-A, 337 and 338 IPC at Police Station Sadar, Bhiwani on the statement made by Vinod Kumar, who was elder brother of the deceased. It is submitted that Vinod Kumar had duly appeared before the learned Tribunal as PW2 and had proved the case of the appellants and proved that deceased Pawan Kumar had died due to the roadside accident.

4. It is submitted that the learned Tribunal has ignored the fact that the rash and negligent driving has been proved as the driver i.e. the respondent no. 1 is facing criminal trial after registration of FIR, thorough investigation, submission of Final report and framing of charges, which in



itself is sufficient to prove rash and negligent driving by respondent no. 1. After the FIR, as per the Chargesheet, respondent No.1 was duly arrested due to his involvement in the accident which fact has been totally overlooked by the learned Tribunal.

5. It is further submitted that in the FIR No. 404 dated 20.06.2018, Vinod Kumar had mentioned that the deceased was his brother and that Anshu was his real nephew and that both of them had come to visit their relative in village Maali after the deceased and Anshu were transferred to Garg Hospital to CHC Hospital Vinod Kumar registered the FIR and the number of the offending vehicle was mentioned HR-21H-4959 of grey colour.

6. Furthermore, the learned Tribunal failed to appreciate the law in respect to cases where criminal cases have been filed in respect to motor vehicle accidents. There is an acceptance that an accident did occur and further the claim petition in Motor Vehicle Tribunals should not scrutinize evidence in the manner as it is done in a civil or criminal case. It is submitted that in a plethora of judgments, it is held that the strict principle of evidence under the scope of Evidence Act cannot be strictly applied to the summary proceeding before the learned Tribunal.

7. It is further submitted that prior to the accident, the deceased was working as a Laboratory Technician and earning Rs.21,500/- per month. The deceased was also deriving agricultural income of Rs.40,000/- per month. Therefore, the appellants are entitled to compensation of



Rs.2,21,08,600/- as per the calculation given in Para 12 of the present appeal.

Learned counsel accordingly prays for setting aside of the impugned Award.

8. Mr. Sachin Jangra, Advocate appears on behalf of respondents No.1 and 2; and files Power of Attorney, which is taken on record. Learned counsel opposes the submissions advanced on behalf of the appellants and submits that the impugned Award suffers from no error; and present appeal be dismissed.

9. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the appellants.

10. Perusal of record of the case shows that the pleaded case of the appellants before the Tribunal as recorded in Para 2 of the Award is that:-

“2. The facts in brief, as per claim petition, are that on 18.06.2018, Pawan Kumar, since deceased alongwith his nephew namely Anshu had gone to village Maali. It is averred that when they returning to village Mehnda on motorcycle being driven by aforesaid Pawan Kumar and reached near village 'Mundhal Fly Over', a car bearing registration No.HR-21H-4959 being driven by respondent No.1 rashly, negligently and in a high speed came and hit against the motorcycle, as a result thereof, Pawan Kumar and Anshu suffered multiple injuries. It is further averred that after the accident the respondent No.1 fled away from the spot without rendering any help to the injured. It is further averred that injured were taken to 'Garg Hospital, Hansi by the passersby and thereafter their family members took them to 'CHC Hospital', Hisar, where Pawan Kumar died on



20.06.2018. It is further averred that on coming to know about the accident, the police reached CMC Hospital' Hisar and on the basis of statement of Vinod Kumar, FIR No.404 dated 20.06.2018, under Sections 279, 304-A, 337, 338 IPC was registered with Police Station, Sadar Bhiwani, against respondent No.1.

It is further averred that Pawan Kumar, since deceased, was 30 years of age at the time of accident; he was a laboratory technician and getting salary to the tune of Rs. 21,500/- per month. It is further averred that he was also earning Rs. 40,000/- from agricultural work. It is further averred that as the present accident had occurred due to sole rash and negligent driving of Car bearing registration No.HR-21H-4959 by respondent No.1, therefore, the respondent No.1, being driver, the respondent No.2 being owner and respondent No.3 being insurer, are liable jointly and severally to pay compensation to the petitioners."

11. The entire claim of the appellants for compensation is based on the premise that an FIR No.404 dated 20.06.2018 was registered against respondent no.1 and that he is facing trial; from which facts it is proved that the respondent no.1 had been driving the offending vehicle in a rash and negligent manner which had led to the death of Pawan Kumar. The appellant have sought to prove their above claim by examining Complainant Vinod Kumar who had appeared before the Tribunal as PW2. However, Vinod Kumar has admitted in his cross-examination that he was not eyewitness to the alleged accident. Except for the fact that there were criminal proceedings going on against the respondent No.1, there is no



evidence whatsoever brought on record by the appellants to prove any rash and negligent driving on part of respondent No.1. No eyewitness of the accident was examined. The appellants had only examined complainant Vinod Kumar who is also brother of the deceased, who had deposed that on 18.06.2018, deceased along with his nephew Anshu had gone to village Maali; and when they were returning from there on a motorcycle being driven by the deceased; and had reached near Village Mundhal Flyover, the offending vehicle which was being driven by respondent No.1 rashly and negligently had hit against the motorcycle as a result of which, Pawan Kumar deceased and Anshu had fell down and suffered multiple injuries. Vinod Kumar as PW2 had further deposed that respondent No.1 had immediately fled away from the spot and the injured were taken to Garg Hospital, Hansi by passersby; whereafter they were transferred to CMC Hospital, Hisar by family members, where Pawan Kumar had died on 20.06.2018. PW2 has further stated that on the basis of his statement, the instant FIR was registered. He accordingly deposed that the accident in question had taken place due to the rash and negligent driving of the offending vehicle by respondent No.1. However, during cross-examination, PW2 Vinod Kumar has admitted that he was not present at the time of accident and can therefore not depose regarding the manner in which it had taken place. PW2 has also been unable to inform as to how he came in knowledge of the above said facts as to how the accident had taken place.



12. It may also be pointed out that claimants have failed to examine any eyewitness to the accident. It is most puzzling as to why claimants have not examined Anshu, who was pillion rider of the motorcycle that was being driven by the deceased at the time of accident.

Accordingly, the learned Tribunal had held as follows:-

“15. It is true that in the case in hand, the respondent No. 1 has remained unexamined; nonetheless the petitioners have to stand on their own legs and even mere filing of challan or framing of charges in a criminal case, pertaining to the accident, does not ipso facto, prove that the concerned accused is solely responsible for the accident, particularly when in the case in hand, the claimants have not examined any eyewitness to prove the rash and negligent driving of car bearing registration No.HR- 21H-4959 by respondent No.1 and moreover in reply to the petition, the respondent No.1 has also denied about taking place of accident and factum of rashness and negligence imputed to him.

*Thus, in the light of discussion made above, simply on the score of criminal proceedings having been initiated, does not ipso facto, establish the incriminating role of respondent No.1. Hence, in the given circumstances, it was also more important for the petitioners to at least have examined the investigating officer who could have made the things very clear about the manner of implication of Hari Om, the respondent No.1 in the accident in question; however, no such steps have been taken by the claimants at the time of leading evidence. Reliance can be placed upon **Bimla and others vs. Parmod and others (supra); Magma Ram Niwas Sharma and others Versus Hari***



Om and others HDI General Insurance Co. Ltd Vs. Mukesh Devi and others 2018(1) PLR 720 (P&H) and Kamla Devi & Anr. Vs. Lalit & Ors. 2019(2) Law Herald (P&H) 1185 .”

13. I am in complete agreement with the above said reasoning of the tribunal. I find no error in the same. The learned Tribunal has given cogent reasons for holding that the appellants were unable to prove that the accident had taken place due to rash and negligent driving of the offending vehicle by respondent No.1.

14. The above-said finding is further fortified from the fact that respondent No.1 stands acquitted in FIR No.404 dated 20.06.2018 by the learned Judicial Magistrate, 1st Class, Bhiwani vide judgment dated 04.08.2025 for the following reasons: -

“17. From perusal of the evidence of the prosecution it appears that there are material contradictions and discrepancies in the prosecution story and the material witness has not supported the case of the prosecution in any manner. The alleged witness, PW1 Vinod, PW2 Kuldeep, and PW 3 Ajay, have all resiled from their previous statements given to the police and did not utter even a single word against the accused person, and were declared hostile on the request of Id. APP for the state.

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19. PW1 Vinod has specifically admitted in his cross-examination that he neither saw the driver of the offending vehicle nor can he recognize the accused present in the court. Similarly, the other private witnesses PW2 and PW3 have also not supported the case of the prosecution in any manner.”



15. Thus, the entire testimony of PW2 Vinod is utterly unreliable as he has given a completely different statement before the trial court, which is totally contrary to his testimony before the Tribunal.

16. This Court cannot be a deaf-mute spectator to the two contradictory versions given by the claimant side. No doubt, proceedings under the Act have to be decided on the preponderance of probabilities. However, this Court cannot shut its eyes in an ostrich like manner to the starkly diametrically opposite stance taken by the claimants' side in the criminal trial. Thus, no credence can be attributed to the contrary statements made by the claimants' side before the learned Tribunal. It would appear that the claimant side had deposed falsely before the learned Tribunal only with the view to get the compensation. In this situation, reference may be made to a judgment of this Court in **“Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others” FAO-2231-2014 decided on 03.12.2019**, wherein it is held as under:-

*“(6) This Court cannot loose sight of the judgment rendered by this Court in the case of **United India Insurance Company Limited versus Kamla Devi and others 2010(53) RCR (Civil) 651**, wherein it was specifically held that in case an eye witness gives totally different version before the Court conducting trial in criminal case from the statement made by the said eye witness before the Tribunal, the testimony of such a witness is unworthy of being accepted and the evidence should be simply rejected. In fact, the learned Single Bench came*



down heavily on such witness and held that the said witness is also liable for perjury.”

- 17. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings, or legal position.
- 18. In view of the above, present appeal stands **dismissed**.
- 19. Pending application(s) if any also stand(s) disposed of.

18.03.2026
Sunena

(NIDHI GUPTA)
JUDGE

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