

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

(105)

FAO-3209-2002(O&M)
Reserved on: 18.03.2026
Pronounced on: 20.03.2026
Uploaded on: 20.03.2026

Lachhman Singh And Another

...Appellants

Versus

Parmar Ramesh Chander And Another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Rishav Jain, Advocate,
 Mr. Kanish Jindal, Advocate
 for the Appellants.

None for the respondent No.1.

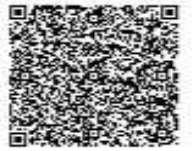
Mr. H.S. Oberoi, Advocate,
 Mr. Ketan Garg, Advocate
 for Respondent No. 2/Insurance Company.

VIRINDER AGGARWAL,J.

1. The present appeal has been filed against the award dated 05.02.2002 passed by the Motor Accidents Claims Tribunal, Patiala, whereby the claim petition arising from the accident was dismissed on the ground that the rash and negligent act of respondent No.1, an Army driver, stood protected as a "sovereign function".

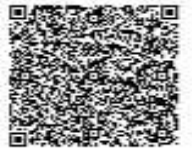
BACKGROUND FACTS

2. The brief facts, as borne out from the record, are that on 15.10.2000, the deceased Rakesh Kumar, aged about 3 years, was seated on a bicycle being ridden by his brother Ramesh Kumar. Both of them were returning from the market after purchasing household articles and were proceeding from



Sheranwala Gate towards Baradari. When they reached near the Lights Crossing/Chowk, Sheranwala Gate, Patiala, a military truck bearing registration No. 59D-105458 X Shaktiman, driven by respondent No.1 Parmar Ramesh Chander (Army driver), approached from the Bus Stand side. The said vehicle was allegedly being driven in a rash and negligent manner, and it is stated that the driver ignored the red traffic signal meant for his side and struck against the bicycle. Due to the forceful impact, the minor child Rakesh Kumar sustained multiple injuries, including a serious head injury. He was immediately taken to Rajindra Hospital, Patiala, where despite medical treatment, he succumbed to the injuries suffered in the accident. Arising out of the aforesaid occurrence, the claimants instituted a claim petition under Section 166 of the Motor Vehicles Act, 1988 before the Motor Accidents Claims Tribunal, Patiala, seeking compensation on account of the untimely death of the minor child Rakesh Kumar.

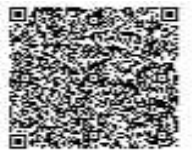
3. The learned Motor Accidents Claims Tribunal, Patiala, while adjudicating the claim petition recorded that the claimants had produced evidence to establish the occurrence of the accident and the death of the minor child Rakesh Kumar. In support of their case, the claimants relied upon the testimony of Ramesh Kumar (AW-2), who deposed that while he was crossing the chowk on a green signal, the military truck came at a high speed and struck the bicycle. The claimants also placed on record the FIR (Ex.A1), post-mortem report (Ex.A2) and death certificate (Ex.A3) to substantiate the factum of the accident and the fatal injuries sustained by the child. However, the learned Tribunal did not enter into a detailed adjudication on the question of rashness or negligence of the driver. Instead, it proceeded to hold that the offending vehicle was a military truck belonging to the Army and was being driven by a serving Army



driver while moving in an official convoy. On that premise, the learned Tribunal concluded that the act complained of arose in the course of performance of sovereign functions of the State, and therefore the Union of India could not be held vicariously liable for the alleged negligent act of its employee. In arriving at the said conclusion, reliance was placed upon the judgment in *Baxi Amrik Singh v. Union of India (1973 PLR 1)*, wherein sovereign immunity had been recognized in respect of acts performed by military personnel while discharging official duties. Applying the said principle, the learned Tribunal held that it would not make any material difference whether the driver of the truck was negligent or not, as the respondents could not be saddled with liability for payment of compensation since the vehicle belonged to the Army and was being driven by an Army driver in the course of official duty. Consequently, the learned Tribunal did not proceed to assess or quantify compensation under any head and ultimately dismissed the claim petition.

CONTENTIONS

4. Learned counsel for the appellants contends that the impugned award is wholly unsustainable. It is submitted that once evidence established the accident and death due to the rash and negligent driving of respondent No.1 (as per eyewitness, FIR, and medical documents), the learned Tribunal could not have dismissed the claim petition on the ground of sovereign immunity without deciding merits. Further, the learned counsel argues that negligent driving of a vehicle on a public road is not a sovereign function, and therefore, the Union of India cannot be exonerated on that ground. It is further urged that the evidence on record (FIR, site details implied, medico-legal/post-mortem reports, and consistent testimony of AW-2) clearly established the manner of the



occurrence. Lastly, learned counsel for appellants submits that the learned Tribunal's refusal to quantify compensation solely on the strength of sovereign immunity amounts to a misapplication of law and a failure to exercise jurisdiction. It is, therefore, prayed that the findings be set aside and just compensation be awarded to the appellants.

5. Learned counsel for respondents No.2 supports the findings recorded by the learned Tribunal. It is submitted that the award has been passed after proper appreciation of the evidence and that the learned Tribunal rightly concluded that the Union of India could not be held liable, as respondent No.1 was discharging sovereign functions at the time of the accident. Further, learned Counsel argues that the learned Tribunal correctly applied the doctrine of sovereign immunity and therefore, no fault can be found with the dismissal of the claim petition. Accordingly, learned counsel contended that the impugned award is well-reasoned and calls for no interference by this Court.

OBSERVATIONS AND FINDINGS

6. I have heard learned counsel for the parties and have carefully perused the entire record. Upon due consideration of the evidence available on record and the findings returned by the learned Motor Accidents Claims Tribunal, Patiala,

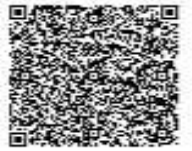
7. It emerges from the record that the learned Tribunal did not undertake adjudication on the issue of rash and negligent driving on merits and instead proceeded to dismiss the claim petition on the premise that the offending vehicle was a military truck belonging to the Army and the driver was performing official duty at the relevant time. On that basis, the learned Tribunal invoked the doctrine of sovereign immunity and held that the Union of India could not be held vicariously liable for the alleged act of the driver. In the



considered opinion of this Court, such an approach is legally unsustainable.

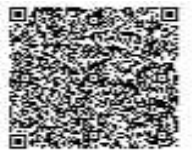
8. On the question of liability of the Union of India in respect of accidents involving military vehicles, the legal position is no longer *res integra*. This Court has already considered the said issue in ***Suresh Dehra v. P.K. Tatyal*** **2026(1) RCR (Civil) 713**, wherein it has been held that the plea of sovereign immunity cannot be invoked in cases arising out of negligent driving of government or military vehicles on public roads. It is well-settled that the doctrine of sovereign immunity, which originates from the English maxim “***rex non potest peccare - the King can do no wrong***”, cannot be mechanically applied in the modern constitutional scheme of India. In this regard, the Hon’ble Supreme Court in the case of ***State of Rajasthan v. Mst. Vidhyawati***, **AIR 1962 Supreme Court 933** has held as under:

“15. There should be no difficulty in holding that the State should be as much liable for tort in respect of a tortuous act committed by its servant within the scope of his employment and functioning as such, as any other employer. The immunity of the Crown in the United Kingdom was based on the old feudalistic notions of Justice, namely, that the King was incapable of doing a wrong, and, therefore, of authorising or instigating one, and that he could not be sued in his own courts. In India, ever since the time of the East India Company, the sovereign has been held liable to be sued in tort or in contract, and the Common Law immunity never operated in India. Now that we have, by our Constitution, established a Republican form of Government, and one of the objectives is to establish a Socialistic State with its varied industrial and other activities, employing a large army of servants, there is no justification, in principle, or in public interest, that the State should not be held liable vicariously tortuous act of its servant.(emphasis supplied)”



Therefore, the traditional doctrine that acts of the State or its officials are beyond judicial scrutiny can not sustain in India, especially in matters involving tortious or negligent acts causing harm to individuals. The Hon'ble Supreme Court in *Mst. Vidhyawati (supra)*, has made it clear that the feudal concept of an infallible sovereign is incompatible with the constitutional framework of a republican and welfare State. Sovereign immunity, therefore, is not absolute, it operates only within a very narrow sphere of functions that are inextricably linked with the core sovereign powers of the State, and it cannot be invoked to shield routine administrative, operational, or vehicular acts of government servants from judicial scrutiny or civil liability.

9. As enshrined in the **Preamble of the Constitution of India**, sovereignty ultimately rests with the people, and the State exists to serve the welfare of its citizens **“*Salus populi suprema lex*” - welfare of people is supreme law.** Following the independence of India, the people of the country adopted and enacted the Constitution, thereby establishing India as a Sovereign, Socialist, Secular, and Democratic Republic. In the present constitutional framework, no individual organ of the State, whether the Executive or the Legislature can claim supremacy. The ultimate authority rests in the Constitution of India itself, which derives its legitimacy and power from the sovereign will of the people, as solemnly enshrined in the opening words of the Preamble: “We, the People of India”. The Preamble, being the soul of the Constitution, affirms that sovereignty flows from the people, and it is they who are the ultimate repository of power. Consequently, in this constitutional scheme, the rights, liberties, and entitlements of the citizenry occupy paramount importance and cannot be subordinated or sacrificed at the altar of the State, even under the guise of sovereign immunity. The State, while exercising its powers, is bound to act in

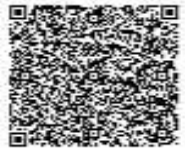


consonance with the Constitution and the will of the people, and cannot arrogate to itself supremacy that overrides the fundamental rights and freedoms guaranteed to its citizens. In essence, sovereignty in India is inalienably vested in the people, and all organs of the State are constitutionally obligated to exercise their authority within this framework. State cannot be absolved of its tortious liability while taking life of one of its citizens by wrongful act of one of its official.

10. Moreover, the Hon'ble Supreme Court in the case of ***M/s. Kasturi Lal Ralia Ram Jain v. State of U.P., AIR 1965 Supreme Court 1039*** has held that the administrative or operational functions, or the negligent operation of Government vehicles on public roads, cannot be treated as sovereign functions so as to absolve liability. The relevant part of the judgment is reproduced as under:

“28. It is not difficult to realise the significance and importance of making such a distinction particularly at the present time when, in pursuit of their welfare ideal, the Government of the States as well as the Government of India naturally and legitimately enter into many commercial and other undertakings and activities which have no relation with the traditional concept of governmental activities in which the exercise of sovereign power is involved. It is necessary to limit the area of these affairs of the State in relation to the exercise of sovereign power, so that if acts are committed by Government employees in relation to other activities which may be conveniently described as non-governmental or non-sovereign, citizens who have a cause of action for damages should not be precluded from making their claim against the State. That is the basis on which the area of the State immunity against such claims must be limited”

.....(emphasis Supplied)”



11. Applying the aforesaid principles to the facts of the present case, it is evident that the act complained of driving a motor vehicle on a public road while taking vehicle from one office to another is purely operational in nature and has no nexus with the inalienable sovereign functions of the State. Such activity is indistinguishable from that carried out by any private individual and, therefore, cannot be elevated to a sovereign act so as to absolve liability.

12. The legal position was further reinforced in ***Pushpa Thakur v. Union of India, AIR 1986 SC 1199***, where the Hon'ble Supreme Court, while dealing with the negligent driving of a military truck, held that the plea of sovereign immunity was wholly inapplicable. It was categorically observed that when negligence of the Army driver is established, the Union of India is vicariously liable, and denial of compensation on the ground of sovereign immunity is impermissible.

13. In view of the aforesaid settled principles of law, the finding recorded by the learned Tribunal holding that the Union of India cannot be made liable on the ground of sovereign immunity is legally unsustainable and is hereby set aside. It is held that if negligence of respondent No.1 in driving the offending vehicle is proved, the Union of India, being the owner of the offending vehicle and employer of the driver, shall be vicariously liable to satisfy the award. Since the learned Tribunal has not recorded a proper and reasoned finding on the issue of rash and negligent driving, this Court considers it appropriate to remand the matter for fresh adjudication on the said issue. Accordingly, the case is remanded to the learned Motor Accidents Claims Tribunal, Patiala, to decide the issue of negligence afresh.

14. In the event the learned Tribunal records a finding that the accident occurred due to the rash and negligent driving of respondent No.1, it shall



thereafter proceed to determine the quantum of compensation payable to the claimants in accordance with the settled principles governing assessment of compensation under the Motor Vehicles Act.

15. The learned Tribunal shall undertake the aforesaid exercise expeditiously and preferably within a period of two months after affording due opportunity of hearing to the parties. It is, however, clarified that while determining the matter, the learned Tribunal shall remain guided by the observations made hereinabove with regard to the liability of the Union of India, which stands concluded in terms of the settled position of law.

16. The appeal stand disposed of accordingly. Pending applications, if any, also stand disposed of.

20.03.2026
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No