

2026:PHHC:064033



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

FAO-729-1999 (O&M)

Judgment reserved on : 25.03.2026

Judgment pronounced on 27.04.2026

BANARSI DASS

... APPELLANT

VERSUS

VIRENDER AND ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Ms. Vamika Johar, Advocate for
Mr. Pritam Singh Saini, Advocate
for the appellant.

Mr. Deepak Kundu, Advocate
for respondent Nos. 1 and 2.

Mr. Sandeep Suri, Advocate
for respondent No. 3-Insurnace Company.

PARMOD GOYAL, J.

1. The appellant-claimant is aggrieved by the award dated 01.12.1998 passed by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'Tribunal'), whereby the claim petition filed by the appellant- claimant under Section 166 read with Section 140 of the Motor Vehicles Act, 1988, seeking compensation on account of injuries sustained in an accident dated 07.04.1993, was dismissed. The appellant-claimant has challenged the dismissal of his claim petition on the ground that the learned Tribunal erred by not properly appreciating the evidence regarding the manner of occurrence of the accident.

2. The case of the appellant-claimant, as set out in the claim petition, is that on 07.04.1993, while he was proceeding from Samalkha towards village

Khozkipur and had reached village Atta, a tractor bearing registration No. HRS-7556 (hereinafter referred to as 'offending vehicle') came and struck against him. As a result of the accident, the left leg of the appellant-claimant was crushed under the wheel of the said tractor. It was asserted that the tractor was being driven by respondent No. 1 in a rash and negligent manner. That on the basis of his statement (contents of which were denied by appellant), entries were made in the daily diary register at Police Station, Samalkha, but no FIR was registered by the police. The appellant-claimant alleged that his thumb impressions were obtained on blank papers and a false report was prepared by taking advantage of his illiteracy. Subsequently, the appellant-claimant filed a complaint against respondent No. 1 under Sections 279 and 337 IPC. The appellant-claimant thus asserted that the accident occurred due to the rash and negligent driving of respondent No. 1 while driving the offending vehicle.

3. Respondent Nos. 1 and 2, in their written statement, apart from raising preliminary objections regarding the maintainability of the claim petition, denied the accident and the injuries alleged, as well as the involvement of respondent No. 1 and the offending vehicle. The accident was denied in toto. Respondent No. 3 also denied the accident and took an additional plea that respondent No. 1 was not holding a valid driving license at the relevant time.

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

1. *Whether the accident in question took place due to rash and negligent driving of Virender respondent No.1, while driving the tractor bearing registration No. HRS-7556 during the course of employment of respondent No.2 and insured with respondent No.3? OPP.*
2. *If issue No.1 is proved, to what amount of Compensation,*

petitioner is entitled to and from whom? OPP

3. *Whether the petitioner has no locus standi to file the present claim petition? OPR.*
4. *Whether respondent No.1 was holding a valid driving licence at the time of the accident?*
5. *Relief.*

5. The learned Tribunal, after appreciating the evidence led by the parties, decided Issue No. 1 against the appellant- claimant and concluded that the involvement of offending vehicle is not proved and it was not at fault in causing the accident.

6. In the present case, it is an admitted position that after the accident dated 07.04.1993, the appellant-claimant was initially taken to Civil Hospital, Samalkha, and thereafter shifted to Medical College and Hospital, Rohtak, where his statement was recorded by the police on 08.04.1993. On the basis of the said statement, DDR/Report No. 13 dated 09.04.1993 was recorded.

7. Perusal of the statement dated 08.04.1993 made by the appellant-claimant before the police shows that therein he had stated that while he was going to village Khozkipur, the tempo he was travelling in broke down near the village, and he, along with Tara, son of Chander Bhan, started walking on the road. In the meantime, a tractor came from the side of village Atta, and its front wheel came off, as a result of which the tractor suddenly veered towards them and had hit his left leg and crushed it. He asserted that accident took place as wheel got separated and not due to fault of tractor driver. However, the appellant-claimant did not disclose the registration number of the offending vehicle or the name of the driver in his statement. On the basis of his statement, only a DDR was recorded and no FIR was lodged.

8. The appellant-claimant, thereafter, filed a criminal complaint on 14.06.1993 (Case No. 239/1 of 1995), which was duly proved on record by PW-3, Subhash Chand Ahlmad in the Court of Sh. R.S. Bagri, learned Judicial Magistrate Ist Class, Panipat, where the said complaint was pending for summoning of the accused, i.e., respondent No. 1.

9. The appellant-claimant appeared in the witness box and asserted that the police had taken undue advantage of his illiteracy and had deliberately not recorded the registration number of the offending vehicle and true facts in order to help the respondent.

10. Appellant-claimant apart from appearing himself in the witness box as PW-1 had also examined his brother, Kishan Chand, as PW-4, claiming that he was accompanying him at the time of the accident. However, the learned Tribunal disbelieved the presence of PW-4 and also drew an adverse inference on account of the non-examination of Tara Chand, who, as per the appellant's own statement dated 08.04.1993 (on the basis of which the DDR was recorded), was stated to be accompanying him at the time of the occurrence.

11. The learned Tribunal concluded that the testimony of PW-1 was wholly self-serving and not corroborated by any independent evidence. The learned Tribunal had also considered the evidence led by the respondents. Respondent No. 1, the alleged driver of the offending vehicle, appeared as RW-2, and the owner of the tractor appeared as RW-1. Both RW-1 and RW-2 categorically denied the occurrence of the accident. RW-1 deposed that his tractor had never been involved in any accident and further stated that his son had never driven the said tractor. RW-2 (respondent No. 1) also made a similar statement and denied that any accident had taken place involving the offending

vehicle.

12. On the basis of the appreciation of the aforesaid evidence, the learned Tribunal decided Issue No. 1 against the appellant-claimant, holding that the appellant-claimant had failed to prove the involvement of the offending vehicle as well as rash and negligent driving on the part of respondent No. 1.

13. Learned counsel for the appellant-claimant has assailed the findings of the learned Tribunal on the ground that the appellant-claimant had suffered grievous injuries in the accident, which ultimately resulted in the amputation of his left leg. He remained hospitalized up to 19.04.1993. It is contended that only, thereafter, he came to know that the police had recorded a DDR without mentioning the registration number of the offending vehicle and had effectively exonerated the tractor from its liability for causing the accident. Consequently, the appellant-claimant filed a criminal complaint under Sections 279 and 337 IPC before the Court on 14.06.1993 and then claim petition.

14. It is further argued that even a bare perusal of the DDR makes it evident that the accident had occurred due to the rash and negligent driving of the offending vehicle.

15. In the present case, the injured appellant-claimant appeared in the witness box as PW-1 and duly reiterated the manner of the accident, asserting that it was caused due to the negligent driving of respondent No. 1. His statement as regards to manner of accident cannot be said to be in contradiction with his earlier statement (Mark-1 dated 08.04.1993), on the basis of which DDR No. 13 dated 09.04.1993 was recorded. Perusal of the DDR shows that the appellant-claimant had clearly stated that the offending vehicle was coming from the front and that its front tyre suddenly got detached, as a result of which the tractor

veered towards him and struck and crushed his left leg. Thus, even as per the DDR, the manner of the accident indicates that it was the result of rash and negligent driving, particularly as the offending tractor was poorly maintained and being driven rashly and negligently, leading to the detachment of its front wheel and loss of control.

16. The primary dispute in the present case, therefore, is not the occurrence or the negligence of tractor, but whether the offending vehicle was tractor bearing registration No. HRS-7556, despite the absence of its registration number and the driver's name in the initial statement.

17. It is contended that the learned Tribunal erred in rejecting the testimony of PW-1. Respondent Nos. 1 and 2 have merely denied the accident. In contrast, the appellant-claimant has successfully established that upon learning about the non-registration of the FIR, he approached the Court by filing a criminal complaint against respondent No. 1 under Sections 279/337 IPC. It has also been further proved that after recording preliminary evidence in the said complaint, respondent No. 1 has been summoned to face trial.

18. The factum of the accident involving a tractor stands duly established, even as per the findings of the learned Tribunal, and is clearly borne out even from the statement dated 08.04.1993 made by the appellant-claimant before the police, on the basis of which DDR No. 13 dated 09.04.1993 was recorded.

19. Accordingly, the occurrence of the accident as well as the fact that it was the result of rash and negligent driving of tractor stands proved. The only issue that remains for adjudication in the facts and circumstances of the present case is whether the accident was caused by tractor bearing registration No. HRS-

7556, as alleged, or by an unknown vehicle. On one hand, there is testimony of PW-1 (the injured appellant-claimant) along with the fact that respondent No. 1 is facing trial pursuant to the criminal complaint filed by the appellant, even if the testimony of PW-4 is excluded. On the other hand, there is a bare denial by respondent Nos. 1 and 2, who appeared as RW-1 and RW-2 respectively.

20. The evidence of RW-1 and RW-2, wherein they have merely denied the occurrence of the accident in toto, cannot be given any weight in the face of the reliable and trustworthy testimony of PW-1. Their statements appear to be self-serving in nature, made only to evade the liability arising out of the accident, and are therefore liable to be disregarded. Admittedly, respondent No. 1 was not holding any driving license.

21. In a motor accident claim, the standard of proof is “preponderance of probabilities”. The Hon’ble Supreme Court in **National Insurance Company Ltd. v. Chamundeswari & Ors.**, 2021 (4) RCR (Civil) 494, has held that the issue whether the driver of the vehicle was negligent or not cannot be decided by applying any straitjacket formula; rather, each case must be adjudged in light of its own facts and the evidence available on record. It is also well settled principle of law that where the Tribunal dismisses a claim petition by ignoring material evidence, the Appellate Court is competent to reappraise the entire evidence and reverse such findings. Since the standard of proof in motor accident claim cases is based upon preponderance of probabilities, the appellant-claimant is not required to prove the case beyond reasonable doubt.

22. In the present case, the standard of proof, i.e. preponderance of probabilities, is required to be applied. Immediately after the accident, when the injured-appellant-claimant was under severe pain and sufferings and also

admitted in the hospital, his statement was recorded on 08.04.1993. In the said statement injured-appellant-claimant clearly stated that he had been hit by a tractor and the tractor had come towards his side after its front tyre got separated. Though, in the statement dated 08.04.1993, it has been recorded that no one was at fault, the manner in which the accident has been described clearly indicates negligence on the part of the tractor driver, as the vehicle became uncontrollable after the tyre got detached and veered towards the injured-appellant-claimant. The core issue, therefore, is whether the absence of the tractor number in the statement dated 08.04.1993 is sufficient to absolve respondent Nos. 1 and 2 of their liability.

23. It is pertinent to note that after the accident dated 07.04.1993, the injured-appellant-claimant remained admitted till 19.04.1993 and suffered amputation of his leg due to the injuries sustained by him on account of accident. Nature of injury and amputation of leg shows that even after his discharge from hospital he must have taken time to recover to some extent. Subsequently, on 14.06.1993, injured-appellant-claimant filed a criminal complaint against respondent No. 1 for causing the accident, as no FIR had been registered on account of the earlier statement dated 08.04.1993 and DDR No. 13 dated 09.04.1993. The prompt filing of the complaint, upon realizing that the earlier statement did not mention the tractor number and effectively diluted liability, lends credence to the version of the injured-appellant-claimant. It is also an admitted position that in the said criminal complaint, respondent No. 1 was summoned to face trial. These circumstances strongly suggest that the DDR recorded on 08.04.1993 did not correctly capture the true facts and circumstances of the present case, as asserted by the injured-appellant-claimant.

There was no plausible reason for the claimant to falsely implicate respondent No. 1 by filing criminal complaint as well as claim petition, particularly when respondent No. 1 was not even holding a valid driving license. Further, respondent Nos. 1 and 2 have denied the accident in toto and contested the claim petition on all counts, which itself rules out any possibility of collusion between the parties for the purpose of claiming compensation. No doubt, the person accompanying the injured-appellant-claimant, namely Tara Chand, was not examined. However, even if this aspect is considered, the contents of DDR No. 13 dated 09.04.1993, coupled with the testimony of PW-1 (the claimant), are sufficient to establish the involvement of respondent No. 1 in causing the accident while driving tractor No. HRS-7556.

24. The learned Tribunal has erred in discarding the testimony of PW-1 merely on account of non-examination of Tara Chand. Once the testimony of PW-1 is found to be reliable and trustworthy, the non-examination of a corroborative witness loses significance. Being an injured eye-witness, PW-1 is a wholly competent witness to depose regarding the manner of occurrence of accident as well as the involvement of the offending vehicle and its driver.

25. In view of the above discussion, it is clearly established that the learned Tribunal has erred in concluding that the injured-appellant-claimant has failed to prove the involvement of the offending tractor and respondent No. 1 in causing the accident dated 07.04.1993. The evidence of PW-1 sufficiently establishes the accident and the involvement of the offending tractor as well as rash and negligent driving of respondent No. 1. When tested on the touchstone of the standard of proof, i.e. preponderance of probabilities.

26. Accordingly, the finding of the learned Tribunal on Issue No. 1 is

set aside. Issue No. 1 is decided in favour of the appellant-claimant. It is held that the accident dated 07.04.1993 occurred due to the rash and negligent driving of tractor No. HRS-7556 by respondent No. 1.

27. In view of issue No. 1 having been decided in favour of the injured-appellant-claimant, the question that now arises for consideration is the determination of just and reasonable compensation payable to the injured-appellant-claimant.

28. No documentary evidence has been produced to establish the pleaded income or vocation of the injured-appellant-claimant. In the absence of any cogent evidence, and keeping in view the fact that the injured-appellant-claimant was a healthy adult male, it can reasonably be presumed that he was engaged in some gainful vocation and earning at least the minimum wages payable to an unskilled worker prevalent at the time of accident. Accordingly, his monthly income is assessed at ₹1,035/- equivalent to minimum wages payable to an unskilled worker in the year 1993. As per the claim petition, the appellant-claimant was stated to be 45 years of age at the time of filing the claim petition. However, while appearing as PW-1 on 21.03.1995, he disclosed his age as 50 years. It is, therefore, evident that the injured was between 45 to 50 years of age at the time of the accident.

29. As per the permanent disability certificate placed on record, the injured-appellant-claimant has suffered 50% permanent disability on account of amputation of his left leg. PW-5, Dr. Gulshan Bajaj, has duly proved that the injured-appellant-claimant had suffered permanent disability to the extent of 50%. Future prospects to the extent of 25% and multiplier of 13 keeping in view age of injured would be applicable. Appellant had remained admitted for 12 days

and his leg was amputated which shows that appellant must have taken 4 months for recovery and, therefore, loss of earning during treatment is assessed as Rs. 4,000/-

30. In view of the fact that injured-appellant-claimant left leg was amputated from the knee joint, the functional disability qua the whole body, for the purposes of assessing loss of earning capacity, is taken at 50%.

31. Accordingly, the compensation awarded to appellant-claimant is as under:

Income	Rs. 1,035/- per month (as per minimum wages payable to unskilled worker)	Rs. 1,035/- per month
Disability	50% of 1035	Rs. 517/-
Future prospects	25% (517+129)	Rs. 646/-
Multiplier	13	13
Loss of Earning capacity due to permanent disability	Rs. 646x13x12	Rs.1,00,776/-
Pain and sufferings		Rs. 25,000/-
Loss of earning during treatment		Rs. 4,000/-
Medical charges, attendant charges, transportation and special diet		Rs. 10,000/-
Loss of future prospects and future amenities		Rs.30,000/-
Total compensation awarded		Rs. 1,69,776/-

32. Claimant-appellant shall also be entitled to interest @ 7.5% on the enhanced compensation from the date of filing of claim petition till realization.

Liability of respondents to pay compensation shall be as per the award.

Respondent Nos. 1 and 2 alone would be liable to pay compensation jointly and severally as respondent No. 1 was not having any driving license.

33. Appeal is accordingly allowed in above terms.
34. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

27.04.2026
manoj

Whether speaking/reasoned
Whether reportable

(PARMOD GOYAL)
JUDGE

Yes
Yes/No