

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

(222)

FAO No. 4026 of 2001(O&M)**Reserved on: 12.03.2026****Pronounced on: 18.03.2026****Uploaded on: 19.03.2026**

Sukhwinder Kaur and Others

...Appellants

Versus

Chhinderpal Singh and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Paramjit Singh Brar, Advocate,
for the Appellants.

Mr. Lovish Arora, Advocate for
Mr. Sanjeev Kumar Arora, Advocate
for the Respondent No.1 & 2.

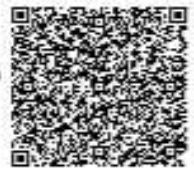
None for the Respondent No.3.,

VIRINDER AGGARWAL, J.

1. The present appeal has been preferred by the appellants-claimants against the award dated 14.05.2001 passed by the learned Motor Accident Claims Tribunal, Faridkot, whereby the claim petition filed under Sections 166 and 140 of the Motor Vehicles Act, 1988 was substantially dismissed.

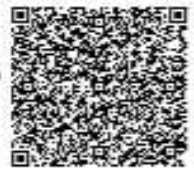
BACKGROUND FACTS

2. The brief facts giving rise to the present appeal are that on 23.01.1999 at about 9:00 A.M., deceased Malkiat Singh, who was serving as a teacher in Government Senior Secondary School, Bajakhana, was travelling from his village Jhakharwala towards Bajakhana on his scooter. It was pleaded that Surjit Ram, a student of the same school, was sitting as a pillion rider on the scooter. When they reached the road between Jaitu and Bajakhana, a mini bus bearing



registration No. PB-04-D-5821, allegedly driven by respondent No.1 in a rash and negligent manner, came from the opposite direction and struck the scooter. As a result of the accident, both the scooter riders sustained injuries and were taken to Civil Hospital, Bajakhana, and thereafter referred to Guru Gobind Singh Medical College & Hospital, Faridkot, where Malkiat Singh succumbed to the injuries. The deceased was stated to be about 44 years of age and employed as a government teacher drawing a monthly salary of about ₹11,925/-. The claimants, who are the widow, children and mother of the deceased, pleaded that they were wholly dependent upon his income. On these assertions, a claim petition was filed before the Motor Accident Claims Tribunal seeking compensation of ₹20,15,000/- along with interest from the driver, owner and insurer of the alleged offending bus.

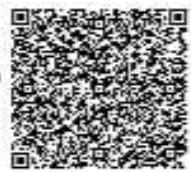
3. Upon appreciation of the evidence on record, the learned Tribunal came to the conclusion that the claimants failed to prove that the accident occurred due to rash and negligent driving of the bus by respondent No.1. The learned Tribunal noticed that the claimants examined Darshan Singh, brother of the deceased, as an eyewitness. However, the learned Tribunal found his testimony to be doubtful and interested in nature. The learned Tribunal also noted that Surjit Ram, who was allegedly travelling as a pillion rider on the scooter and who was the most natural witness to the occurrence, was not examined by the claimants. The learned Tribunal further observed that the FIR was lodged after unexplained delay. Another important circumstance noticed by the learned Tribunal was that the deceased was suffering from 50% permanent disability due to paralysis affecting the right side of his body, which was proved through documentary evidence on record. Taking into consideration the aforesaid circumstances, the learned Tribunal held that the possibility of the scooter



having struck against the bus due to loss of control by the deceased could not be ruled out. Consequently, the learned Tribunal held the claimants failed to establish that the accident occurred due to rash and negligent driving of the offending vehicle by respondent No.1 and therefore declined to award compensation under Section 166 of the Act. However, the learned Tribunal granted a sum of ₹50,000/- under the principle of no-fault liability under Section 140 of the Motor Vehicles Act. Dissatisfied with the findings of the learned Tribunal on the issue of negligence and denial of compensation under Section 166 of the Act, the claimants have approached this Court through the present appeal.

CONTENTIONS

4. Learned counsel for the appellants contends that the learned Tribunal has erred in discarding the testimony of the eye-witness and in holding that negligence of the bus driver was not proved. It is submitted that the evidence on record clearly indicates that the accident occurred due to the fault of the driver of the offending bus. Learned counsel for the appellants contends that the learned Tribunal erred in rejecting the testimony of Darshan Singh merely on the ground that he was brother of the deceased. It is argued that the testimony of a related witness cannot be discarded solely on the basis of relationship if the same is otherwise trustworthy. He also submits that the learned Tribunal wrongly relied upon the disability of the deceased, whereas he was admittedly serving as a teacher and holding a valid driving licence. It is further submitted that even if some doubt existed regarding the precise manner of occurrence, the learned Tribunal ought to have adopted a liberal approach keeping in view the beneficial nature of the legislation and should have granted compensation to the



claimants. On these grounds, it is prayed that the impugned award be set aside and appropriate compensation be granted to the appellants.

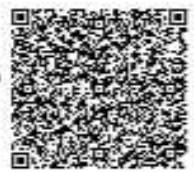
5. Per contra, learned counsel appearing for the respondents supports the award of the Tribunal and submits that the claimants have failed to discharge the basic burden of proving rash and negligent driving of the offending vehicle. It is further argued that the most material witness, namely Surjit Ram, who was travelling as a pillion rider on the scooter, was deliberately withheld by the claimants. It is contended that the material on record clearly indicates that the deceased himself was physically handicapped and was suffering from paralysis affecting the right side of his body, which could have resulted in loss of control of the scooter, and possibility that he struck his scooter against a stationary bus in foggy conditions cannot be ruled out. It is thus contended that the learned Tribunal has rightly dismissed the claim petition and the present appeal deserves to be dismissed.

OBSERVATIONS AND FINDINGS

6. I have heard learned counsel for the parties and have perused the record with their assistance. The primary question which arises for consideration is whether the claimants have succeeded in establishing that the accident occurred due to rash and negligent driving of the offending bus by respondent No.1.

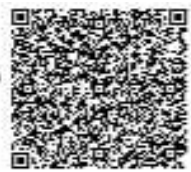
7. Reverting to the facts of the present case, it is evident that the claimants relied upon two witnesses, namely Darshan Singh (examined as AW2) and Surjit Ram (the pillion rider and injured in the same accident), as having witnessed the occurrence. However, Surjit Ram, who was the independent witness and present at the spot in the natural course of events, was not examined for reasons best known to the claimants. It is further observed that

Surjit Ram being injured in accident, could have unfolded the true facts of the



accident, and his non-examination creates a significant lacuna in the claimants' case, rendering the evidence deficient and unworthy of reliance for establishing negligence. The failure of the claimants to examine such a crucial witness invites an adverse inference under Section 114 illustration (g) of the Indian Evidence Act, that the evidence, if produced, would not have supported the case of the claimants. Further, the testimony of Darshan Singh (AW2) is found unreliable on multiple counts. Specifically, AW2 failed to state whether Surjit Ram had suffered injuries at the spot, despite the latter being the pillion rider and an alleged victim of the same collision which is a material omission that undermines the credibility of his account, and his name does not appear in the post-mortem report (Ex. P1) column meant for naming persons bringing the body to the hospital, despite claiming presence and involvement in shifting the injured further casting doubt on his presence at the scene. Moreover, delay in lodging the FIR (Ex. A-1) at Police Station Jaito is also noted, with no explanation proffered by AW2 for this lapse, indicating that he was introduced as a witness post-facto and was not present at the scene of the accident. Thus, the observation on the delay and its impact on AW2's presence is cogent and merits affirmation.

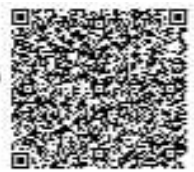
8. Another significant circumstance emerging from the record pertains to the physical condition of the deceased Malkiat Singh. It stands established from the evidence on record that the deceased was suffering from hemiparesis affecting the right side of his body and had been assessed to have about 50% permanent disability. The said fact is not in serious dispute and finds corroboration from the testimony of his widow Sukhwinder Kaur (AW1) as well as the documentary evidence placed on record. The medical certificate (Ex.



R1), produced by the respondents, clearly indicates that the deceased had partial paralysis affecting the mobility and functional control of his right side.

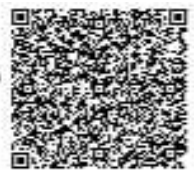
9. Driving a two-wheeler, unlike driving a four-wheeled vehicle, requires constant physical balance, coordination of both hands and legs, quick reflexes and the ability to maintain balance while negotiating traffic conditions. A scooter or motorcycle inherently demands simultaneous control over the accelerator, brakes, clutch (where applicable), steering balance and road response. When a person suffers from partial paralysis affecting one side of the body, particularly the right side which ordinarily operates the accelerator and brake mechanisms, the ability to exercise such precise and prompt control stands substantially impaired. In such circumstances, the act of riding a two-wheeler becomes not only unsafe for the rider himself but also poses a serious potential risk to other road users and any pillion rider. A person who is medically unfit or physically impaired to such a significant extent cannot reasonably be expected to handle a two-wheeler with the same degree of balance, coordination and responsiveness as a physically fit individual. The nature of a two-wheeler vehicle itself demands full physical control and agility. Even a momentary lapse in balance or delayed reaction can lead to loss of control and result in an accident. Therefore, the decision of the deceased to ride a scooter despite suffering from 50% disability affecting his right side reflects a degree of carelessness on his own part. Such conduct cannot be ignored while evaluating the cause of the accident.

10. In the present case, the evidence suggests that the scooter driven by the deceased struck against a stationary bus while attempting to pass from the left side. In the backdrop of the deceased's physical disability, the possibility that he lost balance or failed to properly control the scooter cannot be ruled out. The



testimony of RW2 (Chhinder Pal Singh) supports the version that the scooter came from behind and hit the stationary bus. Significantly, Darshan Singh (AW2), who was examined as an eye-witness by the claimants, did not deny the factum of the deceased's disability during his cross-examination and also failed to explain how a person suffering from such handicap was able to safely manoeuvre the scooter in traffic conditions. This omission assumes importance while appreciating the reliability of the claimants' version. Though the record indicates that the deceased was issued a driving licence (Ex. R2) and was otherwise performing his professional duties as a school employee, as reflected from the salary certificate (Ex. R3), such circumstances cannot override the practical realities of road safety. The issuance of a licence by the licensing authority does not necessarily eliminate the inherent risks arising from a serious physical disability while operating a two-wheeler.

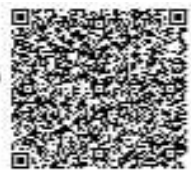
11. Moreover, it has also not been brought on record whether the driving licence was issued to the deceased prior to his paralysis or subsequent thereto, thereby rendering the evidentiary value of the licence itself uncertain for determining his fitness to drive at the relevant time. In the absence of any medical evidence produced by the claimants to establish that the deceased was medically fit to safely ride a scooter despite the paralysis affecting his right side, the inference drawn by the learned Tribunal that the deceased's physical condition could have contributed to the loss of control over the vehicle appears to be both logical and justified. Therefore, keeping in view the nature of the disability suffered by the deceased, the mechanics of operating a two-wheeler and the circumstances of the occurrence, this Court finds no reason to discard the inference that the deceased's own act of riding a scooter despite being physically handicapped was a material factor contributing to the accident. The



learned Tribunal was thus justified in holding that the possibility of the deceased himself being responsible for the accident cannot be ruled out.

12. It is a settled proposition of law that in a claim petition under Section 166 of the Motor Vehicles Act, the burden squarely lies upon the claimants to prove that the accident occurred due to rash and negligent driving of the offending vehicle, though the standard of proof is that of preponderance of probabilities. The strict proof of negligence is not required in motor accident claim cases and the learned Tribunal may arrive at its conclusion on the basis of probabilities and surrounding circumstances. The claimants must still place some material on record to establish negligence which remains a necessary requirement for maintaining a claim under Section 166 of the Act. In ***Oriental Insurance Co. Ltd. v. Meena Variyal & Ors.*** 2007 (5) SCC 428 and ***Surender Kumar Arora v. Dr. Manoj Bisla***, 2012 (4) SCC 552, It is settled that the claimant must establish, by cogent evidence, the factum of the accident, the involvement of the offending vehicle, and rash and negligent driving by the driver. In the absence of proof of these essential elements the claim cannot be entertained. Thus, in the present case, the appellants' grounds impugning these observations as being based on "conjectures and surmises" are untenable, as the analysis is rooted in the evidentiary record. It is, therefore, held that the claimants failed to prove rash and negligent driving on the part of the respondents, thereby disentitling them to compensation on that basis.

13. The cumulative effect of the above circumstances creates serious doubt regarding the version put forth by the claimants. The findings recorded by the learned Tribunal are based upon a proper appreciation of the evidence on record and cannot be said to be perverse or contrary to the material available on the file. It is well settled that the appellate court would not interfere with findings

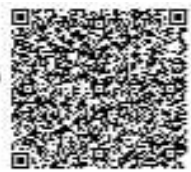


of fact recorded by the learned Tribunal unless such findings are shown to be patently erroneous or based on misreading of evidence. In the present case, no such infirmity has been pointed out which may warrant interference by this Court in appellate jurisdiction.

14. In view of the foregoing discussion, this Court is of the considered opinion that the claimants have failed to establish negligence on the part of respondent No.1 and therefore are not entitled to compensation under Section 166 of the Motor Vehicles Act. Hence, the dismissal of the claim under Section 166 is, therefore, upheld and the learned Motor Accident Claims Tribunal has rightly awarded ₹50,000/- under the principle of no-fault liability as the claim petition had also been filed invoking the principle of no-fault liability under Section 140 of the Act.

15. However, during the pendency of the present appeal, Section 140 of the Motor Vehicles Act, 1988, which originally provided for compensation on the principle of “no-fault liability”, came to be repealed and substituted by Section 164 by virtue of Act 32 of 2019, with effect from 01.04.2022. Section 164 is a beneficial provision under Chapter XI providing for payment of fixed compensation on a no-fault basis: ₹5,00,000/- in case of death and ₹2,50,000/- in case of grievous hurt. Sub-section (2) of Section 164 explicitly provides that the claimant shall not be required to plead or establish that the death or grievous hurt was due to any wrongful act, neglect or default of the owner or driver of the vehicle or of any other person.

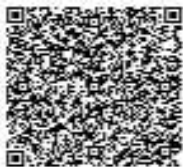
16. The Motor Vehicles Act is a piece of social welfare and beneficial legislation. It is well settled that such statutes must receive a liberal and purposive interpretation so as to advance the object of providing just and speedy compensation to victims of road accidents and their dependents, without



defeating the grant of relief on hyper-technical or procedural grounds. Statutory amendments enhancing the measure of relief, particularly in no-fault liability provisions, can be applied to pending proceedings where they do not impair any vested rights but only advance the cause of justice.

17. The Hon'ble Supreme Court in ***Ram Murti & Ors. vs. Punjab State Electricity Board, 2022(4) TAC 738***, granted the benefit of ₹5,00,000/- under Section 164 even in a case where the claim under Section 166 was dismissed for want of proof of negligence and the accident was of the year prior to the amendment. The Apex Court emphasized that beneficial provisions enacted by Parliament under Chapter XI must be extended to advance the object of social welfare legislation. Similar view has been taken by the Hon'ble Supreme Court in ***New India Assurance Co. Ltd. v. Urmila Halder, 2024 SCC OnLine SC 4983*** and by this Court in ***Nisha Rani & Ors. vs. Parminder Kaur & Others, 2024 NCPHHC 146726***, wherein claims dismissed under Section 166 for failure to prove rash and negligent driving were converted and compensation awarded under Section 164 on the basis that the accident arose out of the use of a motor vehicle. In the instant case, the accident and resultant death of Malkiat Singh having been proved on record and the claim petition being pending in appeal, the appellant is entitled to the benefit of the fixed no-fault compensation under Section 164 of the Act.

18. In view of the foregoing, the appeal is **partly allowed**. The award of the learned Tribunal dismissing the claim petition under Section 166 is upheld insofar as fault liability is concerned. However, the appellant is held entitled to fixed compensation of ₹5,00,000/- (Rupees Five Lakhs only) under Section 164 of the Motor Vehicles Act on no-fault basis. The said amount shall carry interest at rate of 7% per annum from the date of amendment in Motor vehicle Act came



into operation till realization. The liability to pay the awarded compensation shall be borne by the Insurance Company of the bus (Respondent No.3). The compensation amount shall be released in equal shares to the claimants.

19. Accordingly, the appeal stands disposed of in the aforesaid terms.
20. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

18.03.2026
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

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