

FAO-3343-2019 (O&M)

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

FAO-3343-2019 (O&M)

**CHOLAMANDLAM MS GENERAL INSURANCE
COMPANY LIMITED**

..Appellant

Versus

SANTOSH AND OTHERS

..Respondents

Reserved on: 12.12.2025

Date of decision: 10.02.2026

Uploaded on: 10.02.2026

Whether only the operative part of the judgment is pronounced? NO
Whether full judgment is pronounced? YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Punit Jain, Advocate
for the appellant.

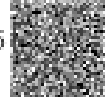
Mr. Amit Chaudhary, Advocate
for respondent No.1 to 5.

SUDEEPTI SHARMA, J. (Oral)

1. The present appeal has been filed by the appellant-Insurance company against the award dated 10.01.2019 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Fatehabad (for short, 'the Tribunal'), wherein the appellant-Insurance company was held liable to pay the compensation of Rs.20,86,000/- to the claimants along with interest @ 7.5 % per annum from the date of filing of claim petition till recovery.

BRIEF FACTS OF THE CASE

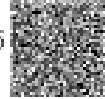
2. Brief facts of the case are that on 26.06.2017, Sube Singh (deceased) alongwith Rajender was going to Bhuna on the motor-cycle



bearing registration no.HR22M/8074 driven by Sube Singh at moderate speed on his side. When they reached at a distance of 2 km from Bhuna in front of Oil Pipeline office towards Jandli Khurd, the offending tractor-trolley bearing registration no.HR22N/5320 was going towards Bhuna, driven by its driver i.e. respondent no.1 at high speed, rashly and negligently. When Sube Singh was crossing the offending tractor-trolley, respondent no.1 all of a sudden stopped it in between the road and struck in the motor-cycle. Due to this, Sube Singh and Rajender Singh alongwith motor-cycle fell down on the road and Sube Singh sustained multiple grievous injuries on his head and other parts of his body. He was taken to CHC, Bhuna and after first aid, he was referred to higher centre and was admitted in Maharaja Aggarsen Medical College and Hospital, Agroha but he succumbed to the injuries during his treatment. Statement of Rajender, eye witness of the accident was recorded and case bearing FIR No.233 dated 27.06.2017 under Sections 279, 337, 304-A of IPC was registered against respondent no.1 and he is facing trial before the court at Fatehabad. The accident took place due to the negligence of respondent no.1 of vehicle tractor-trolley no.HR 22N/5320 under the employment/authorization of respondent no.2 and the insurer/respondent no.3. Thus, the respondents are jointly and severally liable to pay the compensation.

3. Upon notice of the claim petition, respondents therein appeared and contested the claim petition by filing separate written statement denying the factum of accident/compensation.

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



“1. Whether Sube Singh son of Gopal, died in the accident in question which took place due to rash and negligent driving of vehicle bearing registration no.HR22N/5320 by respondent no.1?OPP.

2. If issue no.1 is proved in affirmative, then whether the petitioners are entitled to the compensation, to what extent and from whom?OPP.

3. Whether there was contravention of terms and conditions of insurance policy, if so to what effect?OPR-3.

4. Relief.”

5. Thereafter, both the parties led their evidence in support of their respective pleadings.

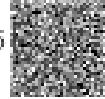
6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:

7. Learned counsel for the appellant–Insurance Company contends that learned Tribunal has wrongly decided issue No.1 whereas, respondents No.1 to 5 claimants could not prove the factum of accident, therefore, he prays for dismissal of the present appeal.

8. Per contra learned counsel for the respondent-claimants contends that learned Tribunal has rightly awarded the compensation to the claimants/respondents No.1 to 5. Therefore, he prays for dismissal of the present appeal.

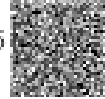
9. I have heard learned counsel for the parties and perused the whole record of the case with their able assistance.



10. It would be apposite to reproduce the relevant portion of the award, which is reproduced as under:-

“ISSUE NO.1

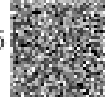
12. In order to prove this issue, the petitioner no.1 appeared as PW1 and stated that her husband Sube Singh died in the motor vehicle accident which took place on 26.06.2017 due to the negligent driving of the driver/respondent no.1 who all of a sudden took the tractor-trolley down the road and struck into the motor-cycle. At the time of accident, he was accompanied by Rajender Singh and both of them were going to Bhuna on the motor-cycle no.HR-22M-8074. She further stated that after the accident, her husband Sube Singh was rushed to CHC, Bhuna and after first aid, he was referred to Maharaja Aggarsain Medical College but unfortunately, he succumbed to injuries during his treatment in the hospital. Petitioner have also examined Rajender Kumar as PW2 and he was accompanying Sube Singh (deceased) at the time of accident. He stated that the motor-cycle was driven by Sube Singh at moderate speed and he was pillion riding it. When they reached in front of oil pipeline office, offending tractor-trolley bearing no.HR22N/5320 was also going towards Bhuna driven by respondent no.1 rashly and negligently. When Sube Singh was crossing the offending tractor-trolley, all of a sudden respondent no.1 turned it aside and struck into the motor-cycle Due to this, Sube Singh sustained multiple grievous injuries on various part of the body and his injuries proved fatal. He further stated that the police recorded his statement, on the basis of which, FIR



No.233 dated 27.06.2017 was registered against respondent no.1. The petitioners have also examined Tulsi Ram as PW4 who has also deposed on the lines of PW2 Rajender. They both specifically stated that the accident occurred due to negligent driving of respondent no.1.

13. In addition to this, the post-mortem report of Sube Singh has been placed on file as Ex.P6 where the cause of death has been mentioned as road side accident upon the information furnished by the police and the death as per the report was due to traumatic shock due to cranio cerebral and abdominal injury. Though the learned counsel for the respondents submitted that no accident took place due to the negligence as stated by the petitioner but the respondent did not appear in the witness box to rebut the case of the petitioner. It has been held in Raju and others vs. Sukhwinder Singh and others 2000(4) RCR (Civil) 82 (P&H) that if the driver of the offending vehicle does not come forward to deny his negligence, then an adverse inference has to be drawn and he is presumed to be negligent.

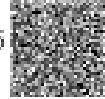
In addition to this, the evidence of the petitioners is corroborated by the fact that a criminal case bearing FIR no.233 dated 27.06.2017, under Section 279, 337, 304-A of the IPC, Police Station Bhuna (Ex.P1) was registered against the respondent no.1 regarding this accident and report under Section 173 CrPC Ex.P2 was filed against him. Vide order dated 23.10.2017, the respondent no.1 was charge-sheeted on finding a prima-facie case against him for the alleged commission of offence under Section 279, 337, 338, 304-A of IPC



(Ex.P3) and these documents have been duly proved by investigating officer of the case ASI Bhup Singh, examined as PW3. It has been held in Gurdeep Kaur Versus Tarsem Singh 2008 (2) RCR (Civil) 774 (P&H) that “if the driver is being tried on account of rash and negligent driving in a criminal case in a court of law, it is prima-facie sufficient to hold that the accident occurred on account of his rash and negligent act.” Thus, from above discussion, it is prima-facie sufficient to hold that the accident was caused due to the rash and negligent driving of the tractor-trolley no.HR-22N5320 driven by respondent no.1 which caused the death of Sube Singh. In view of above, issue no.1 is decided in favour of the petitioners.”

11. A perusal of the impugned award reveals that the learned Tribunal has, upon a meticulous appreciation of the oral and documentary evidence on record, rightly returned finding that the accident in question occurred due to the rash and negligent driving of the offending tractor-trolley bearing registration No. HR-22N-5320.

12. The finding of negligence is firmly founded upon the testimony of PW-2 Rajender Kumar, eye-witness to the occurrence, who categorically deposed about the manner in which the accident took place and specifically attributed negligence to the driver of the offending vehicle. His testimony inspires confidence and remained unshaken despite lengthy cross-examination, as nothing material could be elicited to discredit his version or impeach his credibility. The said testimony also finds corroboration from the statement of PW-4 Tulsi Ram, who deposed on similar lines regarding the negligent conduct of the respondent-driver.



13. Further corroboration is available from the medical and official records. The post-mortem report (Ex. P-6) conclusively records the cause of death as resulting from a road-side accident, with death having occurred due to traumatic shock arising from cranio-cerebral and abdominal injuries. The medical evidence thus fully supports the ocular account of the witnesses.

14. Additionally, it has come on record that respondent-driver of the offending vehicle, is facing criminal prosecution in respect of the very same accident. The registration of FIR, filing of the challan under Section 173 Cr.P.C., and framing of charges against him under Sections 279, 337, 338 and 304-A IPC lend further assurance to the version put forth by the claimants.

15. In the totality of the circumstances, this Court finds no perversity, illegality, or infirmity in the findings returned by the learned Tribunal on the issue of rash and negligent driving. The conclusion arrived at is based on cogent evidence and settled principles of law and does not call for any interference in appellate jurisdiction.

16. Consequently, the appeal, being devoid of merit, is dismissed. The impugned award is accordingly affirmed.

17. The statutory amount of Rs.25,000/- deposited by the appellants at the time of admission of the appeal, is ordered to be refunded to them.

18. Pending miscellaneous applications, if any, are also disposed of.

10.02.2026

Sahil/Ayub

(SUDEEPTI SHARMA)
JUDGE

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