

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(1) FAO-2026-2022 (O&M)

UNITED INDIA INSURANCE CO. LTD.Appellant

vs.
AYUSH AND OTHERSRespondents

(2) FAO-2029-2022 (O&M)

UNITED INDIA INSURANCE CO. LTD.Appellant

vs.
AYUSH AND OTHERSRespondents

(3) FAO-2030-2022 (O&M)

UNITED INDIA INSURANCE CO. LTD.Appellant

vs.
AYUSH AND OTHERSRespondents

(4) FAO-2036-2022 (O&M)

UNITED INDIA INSURANCE CO. LTD.Appellant

vs.
AYUSH AND OTHERSRespondents

Reserved on:- 30.01.2026
Pronounced on:- 13.02.2026
Uploaded On:- 13.02.2026

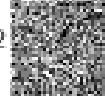
Whether only the operative part of the judgment is pronounced? NO
Whether full judgment is pronounced? YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. R.C. Gupta, Advocate
for the appellant.

Mr. Abhimanyu Batra, Advocate (through v.c.)
Mr. Satish Kumar Rana, Advocate
for respondent No.1.

Mr. Prashant Singh Chauhan, Advocate
for respondent No.4.



SUDEEPTI SHARMA J.

1. Since the ground of challenge in all the appeals is same, therefore, vide this common judgment, all four appeals shall be decided.

2. The present appeals are filed by Insurance Company challenging award dated 12.01.2022 passed by learned Motor Accident Claims Tribunal, Jind on the ground of finding on issue of negligence and quantum of compensation being on higher side.

3. Brief facts of the case are that claimant/respondent No.1-Ayush, aged about 9 years, through his maternal grandfather Shri Ramji Lal son of late Shri Banwari Lal, has averred that on 30.07.2018, he (claimant), along with his younger sister Aanvi @ Aanya (since deceased), parents Satish Sharma (since deceased) and Smt.Sunita Sharma (since deceased), cousin Kartikey and Akshit and paternal grandmother Smt. Prem Lata, started for Gurugram from Chandigarh in Honda City Car No. HR-26AD-5062, which was being driven by his father Shri Satish Sharma at moderate speed and on correct left side of the road. At about 12:00/12:30 P.M., when they reached near the bridge of Khanpur Koliyan, Police Station, Thanesar Sadar, District Kurukshetra, a Truck Trola bearing registration No. PB-11AG-9186, came from Shahabad side, which was being driven rashly and negligently and at a high speed by its driver. While his father Shri Satish Sharma (driving Honda City Car No.HR-26AD-5062) was in the process of crossing the aforesaid Truck/Trola, its driver changed the land and suddenly stopped his Truck/Trola in front of their Honda City Car. His father Shri Satish Sharma (since deceased) applied breaks, but the same were of no avail as the Car slid underneath the Trola. The impact of collision was so great that her mother Sunita, and younger sister Aanvi @ Aanya, died at the spot, whereas he himself



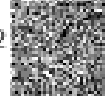
grandmother Smt. Prem Lata, suffered multiple serious and grievous injuries. Injured were rushed to the hospital. His father Shri Satish Sharma and grandmother Smt. Prem. Lata unfortunately died during treatment in LNJP Hospital, Kurukshetra. He (claimant/respondent No.1 Ayush) and his cousin brothers Kartikey and Akshit, were got admitted in Anand Hospital, Kurukshetra.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

4. Learned counsel for the appellant–Insurance Company contends that the learned Tribunal erred in not considering contributory negligence on the part of the deceased, driver of Honda City Car No. HR-26-AD-5062. He further contends that as per the testimony of eye-witness (PW-5), the deceased attempted to overtake the offending Truck/Trolla No. PB-12-AG-9186 and failed to exercise due caution while doing so. Hence, some proportion of liability ought to have been fastened upon him.

5. He relies on *Nishan Singh and others Vs Oriental Insurance Company Limited, 2018 INSC 341* to support his arguments wherein, Hon’ble Supreme Court held that the car which crashed into truck which was proceeding in front of the same was driving negligently by not maintaining sufficient distance as contemplated in Road Regulations framed under Motor Vehicles Act, 1988. Therefore, he prays that the present appeal be allowed.

6. Per contra, learned counsel for the respondent–claimants submits that no issue regarding contributory negligence was framed, nor was any such plea raised before the learned Tribunal. He further contends that neither the driver nor the owner of the offending vehicle stepped into witness box to prove negligence on the part of the deceased. Therefore, the finding of the learned Tribunal warrants no interference and the appeal deserves dismissal.



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

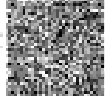
8. It would be apposite to reproduce the relevant extract of award, which is reproduced as under:-

“ISSUE NO.1:-

16. (a) First question which needs adjudication is as to whether vehicle No. PB-11AG-9186 was involved in the accident.

(b) If answer to the above question is in the affirmative, then it leads us to the second question as to whether accident occurred on account of rash and negligent driving on the part of driver (respondent No. 1) of offending vehicle No. PB-11AG-9186.

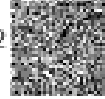
17. So as to prove the factum of rash and negligent driving on the part of respondent No.1, learned counsel for the claimant (s) first of all referred to the statement made on oath by Shri Devi Dayal Jangra, eyewitness to the accident and author of the FIR Ex.P1, who while appearing in the witness box as PW5 narrated the sequence of events that led to the accident, highlighted the manner in which the tragic incident occurred. This witness categorically deposed that on 30.07.2018, after winding up his work, he was returning from Shahabad to his home at Kurukshetra on Motorcycle No.HR-07J-2536. When he reached near flyover situated at Khanpur Koliyan, a truck trolla bearing No.PB-11AG-9186, which was being driven by its driver in a rash and negligent manner and at a high speed, came from Shahabad side and its driver suddenly changed the lane and stopped his Truck/Trolla in front of a Honda City Car No.HR-26AD5062. The driver of Honda City Car namely Satish Sharma (since deceased) applied breaks, but the same were of no avail as the Car slid underneath the Trolla.



The impact of collision was so great as a result of which Smt.Sunita Sharma and Aanya @ Anvi died at the spot whereas Ayush, Shri Satish Sharma, Kartikey, Akshit and Smt.Prem Lata, suffered multiple serious and grievous injuries. Injured were rushed to the hospital. Shri Satish Sharma and Smt.Prem Lata unfortunately died during treatment LNJP Hospital, Kurukshetra. Other injured Aayush, Kartikey and Akshit were got admitted in Anand Hospital, Kurukshetra. He (PW5) informed the family members of injured about the incident. Police reached LNJP Hospital and recorded his statement, on the basis of which, FIR No.374 dated 30.07.2018 for the commission of offence punishable under Sections 279, 337 and 304-A IPC was registered. Learned counsel further submitted that despite the fact that the eye-witness and author of the FIR PW5 Devi Dayal, was put to rigorous cross-examination, but his testimony remained unshaken.

Learned counsel for the claimants while referring to the copy of FIR (Ex.P1), which was lodged on the statement of eyewitness Devi Dayal (PW5), submitted that the prompt lodging of FIR wherein not only the number of offending vehicle but the manner in which the accident occurred was also mentioned, further supports the case of claimants that accident occurred on account of rash and negligent driving on the part of respondent No.1. It can also be inferred that after lodging FIR No.374 dated 30.07.2018, police authorities investigated the matter and on finding reliable clues against respondent No.1, police submitted report under Section 173 Cr.P.C. against him for the commission of offence punishable under Sections 279, 337, 338 and 304-A IPC.

At this stage, copies of PMR Ex.P2 (Satish Sharma), PMR Ex.P3 (Aanya Sharma), PMR Ex.P4 (Sunita Sharma), treatment record Ex.P5 (Aayush), site

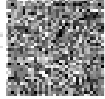


plan (Ex.P6) and recovery memo (Ex.P7) of offending truck/trolla No.PB-11AG-9186 and Car No.HR-26AD-5062 were also referred to. Learned counsel summed up his arguments by urging that evidence both oral as well as documentary, when perused carefully goes to show that Truck/Trolla bearing registration No.PB11AG-9186 was involved in the accident which occurred on account of rash and negligent driving on the part of respondent No.1. It was thus prayed that this issue be decided in favour of claimants.

18. In response to the contentions raised by learned counsel for the claimants, learned counsel for the respondents contended that Truck/Trolla bearing registration No.PB-11AG-9186 was falsely implicated in the present case by claimants in collusion with the police officials, only with a view to extract illegal monetary benefit. They also contended that lodging of the FIR and filing of challan against the respondent no. 1 in a criminal trial, by itself is not sufficient to prove the factum of rash and negligent driving on the part of respondent No.1. Accordingly, it was prayed that the present issue be decided against the claimants.

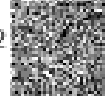
19. Having heard rival submissions advanced by learned counsel for the parties and perusing the entire evidence both oral as well as documentary, I express my inability to agree with the submissions advanced by learned counsel for respondents for the reasons cited hereinbelow:-

20. In order to prove the negligence of respondent No.1, eyewitness and author of the FIR Devi Dayal Jangra while appearing in the witness box as PW5 deposed that at about 12:00/12:30 PM on 30.07.2018, after winding up his work, he was returning from Shahabad to his home at Kurukshetra on motorcycle No.HR-07J-2536. When he



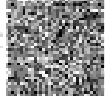
reached near flyover in the area of Khanpur Koliyan, a Truck Trolla bearing registration No.PB-11AG-9186, came from Shahabad side, which was being driven rashly and negligently and at a high speed by its driver. When the driver of Honda City Car No.HR-26AD-5062 was in the process of crossing the aforesaid Truck/Trolla, its (Truck/Trolla) driver changed the lane and suddenly stopped his Truck/Trolla in front of Honda City Car. Driver of Honda City Car applied breaks, but the same were of no avail as the Car slid underneath the Trolla. The impact of collision was so great that driver and two other occupants therein died at the spot, whereas others suffered multiple serious and grievous injuries and were immediately rushed to the hospital. Satish Sharma and Prem Lata unfortunately died during treatment in LNJP Hospital, Kurukshetra, whereas Aayush, Kartikey and Akshit were got admitted in Anand Hospital, Kurukshetra. This witness further deposed that he had noted down the number of offending vehicle i.e. Truck/Trolla as PB-11AG-9186 and also intimated the family members of injured, who reached LNJP Hospital, Kurukshetra. Police authorities were intimated, who reached LNJP Hospital, Kurukshetra and recorded his (PW5) statement, on the basis of which, a formal case vide FIR no. 374 dated 30.07.2018 u/ss 279, 337 and 304-A IPC (Ex.P1) was registered against driver of Truck/Trolla as PB-11AG-9186. Postmortem examinations on the dead bodies of Aanya @ Anvi, Satish and Sunita were got conducted in LNJP Hospital, Kurukshetra.

21. Copy of FIR (Ex.P1) appended with the case file has also been perused, wherein also complainant/eyewitness in his first version narrated the sequence of events that led to the accident and highlighted the manner in which the tragic incident occurred on account of rash and



negligent driving of Truck/Trolla as PB-11AG-9186 on the part of respondent No.1. It has been also noticed that immediately after the accident, police officials were intimated who reached LNJP Hospital, Kurukshetra and recorded the statement of Devi Dayal Jangra (PW5). After registration of FIR, investigations were set into motion and on the basis of reliable clues, respondent No.1 was arrested, who is admittedly facing criminal trial in FIR No.374 dated 30.07.2018 for the commission of offence punishable under Sections 279, 337, 338 and 304-A of IPC. Furthermore, recovery memo Ex.P7 placed on the case file supports the case of claimants regarding involvement of Truck/Trolla bearing registration No.PB-11AG-9186 in the accident in question.

Having perused the entire evidence carefully, the only conclusion that can be arrived at is that claimants have been able to prove the involvement of Truck/Trolla bearing registration No.PB-11AG-9186. Rash and negligent driving on the part of driver of aforesaid truck/trolla also stands established in view of the statement made on oath by eyewitness/author of the FIR Devi Dayal Jangra (PW5), who in his first version given to the police very clearly described the manner in which the accident occurred and reiterated his stand while appearing before the Tribunal. Despite being cross-examined rigorously, testimony of this witness remained unshaken regarding rash and negligent driving on the part of driver of Truck/Trolla bearing registration No.PB-11AG-9186. It has already been noted above that after the lodging of FIR, criminal law was set into motion and after the investigation agency of the State investigated the matter, on the basis of reliable clues, they arrived at a conclusion that on the ill fated day i.e. 30.07.2018, Truck/Trolla bearing registration No.PB-11AG-9186 was



being driven rashly and negligently. Resultantly, challan was filed against respondent No.1, who is admittedly facing trial in case FIR No.374 dated 30.07.2018 for the commission of offence punishable under Section 279, 337, 338, 304-A IPC, registered with police station Sadar Thanesar (Kurukshetra).

22. Though, respondent Nos.1 and 2 have denied the involvement of Truck/Trolla bearing registration No.PB-11AG-9186 and rash and negligent driving on the part of respondent No.1 but surprisingly none of them appeared in the witness box in support of their stand taken in the written statement. In the absence of any evidence, their plea that Truck/Trolla bearing registration No.PB-11AG-9186 has been falsely implicated and driver i.e. respondent No.1 was not driving the vehicle rashly and negligently, remains unproved.

23. More over, there is nothing on the case file from where it can be inferred that claimants in collusion with the police officials falsely implicated respondent No.1 in the criminal case. Had respondent no.1 been falsely implicated in the criminal case, he would have approached the higher police authorities but no such evidence has been brought on record by him and thus, an adverse inference can easily be drawn against him.

24. It also needs to be mentioned here that in motor accident claim cases standard of proof is not as strict as required in criminal trial. In criminal trials, the case has to be proved beyond reasonable doubt but in motor accident claim cases standard of proof is based on preponderance of probabilities. Hon'ble Supreme Court of India in case law titled as Anita Sharma and others vs. The New India Assurance Co.Ltd and another 2019 (4) Law Herald 2953 observed that "Motor accident- Standard of proof in motor accident matters is one of



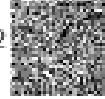
preponderance of probabilities rather than beyond reasonable doubt.”

25. Therefore, the evidence of petitioners has to be tested on the touch stone of preponderance of probabilities while keeping in view the nature of occurrence which is sudden and unpredictable. Viewed from any angle and on the basis of evidence adduced on the case file, this Tribunal is of the opinion that the claimants have been able to prove the involvement of Truck/Trolla bearing registration No.PB-11AG-9186 as also factum of rash and negligent driving on the part of respondent No.1 on the ill fated day i.e. 30.07.2018 in area of village Khanpur Koliyan, District Kurukshetra. Hence, this issue is decided in favour of the claimants.”

9. A perusal of the impugned award reveals that the learned Tribunal has rightly appreciated the entire oral as well as documentary evidence available on record and returned a well-reasoned finding that the accident in question occurred on account of the sole rash and negligent driving of the driver of the offending Truck/Trolla bearing registration No. PB-11-AG-9186.

10. From the record, it transpires that the occurrence was witnessed by Devi Dayal Jangra, who was examined as PW-5. He is not only the eye-witness but also the author of the FIR. He categorically deposed that he had noted the registration number of the offending vehicle at the spot and, on the basis of his statement, FIR No. 374 dated 30.07.2018 was registered. In his deposition before the learned Tribunal, he vividly narrated the manner in which the accident took place and unequivocally attributed negligence to the driver of the offending vehicle. Despite being subjected to searching cross-examination, his testimony remained consistent and unimpeached. The learned Tribunal, therefore, rightly

placed reliance upon his evidence.



11. Significantly, a perusal of the written statement filed by the Insurance Company discloses that no specific plea of contributory negligence was raised therein. Likewise, in the written statement filed by the driver and owner of the offending vehicle, no allegation was levelled against the deceased-driver of the car. Neither the driver nor the owner stepped into the witness box to substantiate their defence. In the absence of any evidence to the contrary, the plea now sought to be urged regarding contributory negligence remains a mere assertion without proof.

12. It is further noteworthy that no issue with regard to contributory negligence was framed by the learned Tribunal, nor was any evidence led by the appellant–Insurance Company to establish the same. In this regard, the Hon’ble Supreme Court in *M. Nithya & Ors. v. SBI General Insurance Co. Ltd, arising out of SLP(Civil) No.833-834 of 2023* has held that where no issue on contributory negligence was framed by the Tribunal, the High Court ought not to entertain such a plea so as to reduce the compensation awarded. The ratio of the said judgment squarely applies to the facts of the present case.

13. So far as judgment referred to by learned counsel for the appellant-Insurance Company rendered in Nishan Singh’s case (supra) is concerned, the said judgment will be of no help in the present case.

14. Hon’ble Supreme Court in *National Insurance Company Ltd. Vs. Chamundeswari and others, 2021 INSC 592*, has held that whether driver of vehicle was negligent or not, there cannot be any straight-jacket formula.

15. It is trite that in proceedings under the Motor Vehicles Act, the standard of proof is that of preponderance of probabilities and not proof beyond reasonable doubt. In the present case, the claimants have successfully discharged



trustworthy testimony of PW-5, which stands corroborated by the registration of the FIR and the subsequent criminal proceedings.

16. So far as the contention raised by learned counsel for appellant-Insurance Company regarding the quantum of compensation, the same has been dealt by this Court vide order of even date passed in FAO-1680 of 2023, titled as "Ayush Minor Through his maternal grandmother Vs. Jagdish and others" and FAO-1580-2023, FAO-1636-2023 and FAO-1920-2023, titled as "Ayush Minor Through his maternal grandmother and others Vs. Jagdish and others" arising from the same award dated 12.01.2022.

17. In view of the foregoing discussion and the settled position of law, this Court finds no perversity or infirmity in the findings recorded by the learned Tribunal holding the driver of the offending vehicle solely negligent. The award, therefore, warrants no interference.

18. Consequently, the present appeal, being devoid of merit, is hereby dismissed.

19. Pending application(s), if any, also stand disposed of.

13.02.2026

Saahil

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No