



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

(102)

FAO no. 3561 of 2004(O&M)

Reserved on: 04.02.2026

Pronounced on: 06.02.2026

Uploaded on: .02.2026

Amarjit Kaur And Others

... Appellants

Versus

Kulwinder Singh And Another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Ms. Shazia K. Singh, Advocate,
Mr. Ajaivir Singh, Advocate
for the appellants.

Mr. Paul S. Saini, Advocate,
Ms. Simran Sharma, Advocate,
Ms. Gunjan Nahata, Advocate
for respondent No.2/Insurance Company

VIRINDER AGGARWAL, J.

1. The present appeal has been preferred by the appellant assailing the award dated 01.03.2004 passed by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib, whereby the claim petition filed under Section 166 of the Motor Vehicles Act was dismissed. However, a sum of ₹50,000/- was awarded towards no-fault liability on account of the death of Harchand Singh, who succumbed to injuries sustained in a motor vehicle accident dated 26.11.1996.

BACKGROUND FACTS

2. The brief facts of the case are that on 26.11.1996, Harchand Singh, aged about 38 years, an agriculturist, was proceeding bicycle towards Khamanon on the correct side of the road. It is alleged that a truck bearing registration No. PB-12-B-7610, owned and driven by respondent No.1 Kulwinder Singh, came in a rash and negligent manner and struck the deceased, causing multiple



grievous injuries which resulted in his death. Consequently, a claim petition was filed before the Motor Accident Claims Tribunal, Fatehgarh Sahib, seeking compensation on account of the death of Harchand Singh in the said accident.

3. Upon appreciation of the evidence on record, the learned Tribunal held that although the death of Harchand Singh in a motor vehicular accident stood proved, the claimants failed to establish that the accident occurred due to rash and negligent driving of the truck by respondent No.1. The testimony of Khushi Ram (CW-1) was disbelieved on the ground that he was not an eyewitness and his statement did not inspire confidence. Likewise, the widow of the deceased (AW-2) was unable to connect respondent No.1, the driver, with the alleged accident. Further, the learned Tribunal relied upon the contemporaneous DDR (Entry No.12) dated 28.11.1996, recorded at the instance of Charan Singh, which stated that the accident was sudden, that no one was at fault, and that no action was required. Significantly, neither the number of the truck nor the name of its driver was mentioned in the DDR. Moreover, Charan Singh, the informant, was also not examined as a witness. In the absence of reliable, independent and cogent evidence establishing the involvement of the insured truck and the negligence of its driver, though the factum of death was proved, the learned Tribunal confined the award to statutory no-fault liability and granted compensation of Rs. 50,000/-, to be shared equally among the claimants, holding the respondents jointly and severally liable.

CONTENTIONS

4. Learned counsel for the appellants contended that the impugned award is contrary to law and the evidence on record. It was submitted that the learned Tribunal erred in disbelieving the testimony of Khushi Ram (CW-1) and Amarjit Kaur (AW-2) merely on the ground that the truck number and the name



of the driver were not mentioned in the initial DDR. It was urged that the DDR itself was unreliable and indicative of police collusion, as reflected from the letter (Ex.A-1) addressed by the widow to higher police authorities soon after the occurrence. It was further contended that once the death in a motor vehicular accident stood proved and the offending truck was insured, the learned Tribunal ought to have drawn an adverse inference against the respondents. According to learned counsel, the surrounding circumstances and documentary evidence clearly pointed towards the involvement of the insured vehicle and, once such involvement was established, the burden shifted on the respondents to rebut the presumption of negligence, which they failed to do. On these premises, it was submitted that the learned Tribunal erred in confining the award to no-fault liability under Section 140 of the Motor Vehicles Act and in denying just compensation under Section 166, warranting interference with the impugned award.

5. Learned counsel for the Insurance Company supported the impugned award and contended that the claimants failed to discharge the burden of proving the involvement of the insured vehicle and rash and negligent driving by respondent No.1. It was submitted that the contemporaneous DDR was reliable and recorded that the accident was sudden and that no one was at fault. Learned counsel further argued that no FIR was registered against respondent No.1, Khushi Ram (CW-1) was not proved to be an eyewitness, and the testimony of the widow along with the subsequent letter to the police authorities was self-serving and insufficient to fasten liability. It was contended that the learned Tribunal had passed the award after due appreciation of the evidence on record and that no interference by this Court was warranted.

**OBSERVATION AND FINDINGS**

6. I have heard learned counsel for the parties and carefully perused the record, including the pleadings, evidence, grounds of appeal and the impugned award.

7. At the outset, this Court finds no infirmity in the approach of the learned Tribunal in insisting upon strict proof of the foundational facts. In a claim petition under Section 166 of the Motor Vehicles Act, 1988, the burden lies squarely on the claimants to establish, on the touchstone of preponderance of probabilities, the occurrence of the accident, involvement of the offending vehicle and rash or negligent driving by its driver. Mere death in a road incident or proof of dependency cannot substitute for proof of negligence.

8. The entire case of the claimants rests primarily on the testimony of Khushi Ram (CW-1) and Amarjit Kaur (AW-2). However, Khushi Ram (CW-1) was not established to be an eyewitness present at the spot at the time of the alleged accident. His version surfaced subsequently and is at variance with the initial police record, which was prepared contemporaneously with the occurrence. Further, this Court finds that the learned Tribunal has rightly noticed that his presence at the scene of the accident was doubtful and his testimony did not inspire confidence so as to form the basis of a finding on rash and negligent driving. Similarly, the testimony of the widow, Amarjit Kaur (AW-2), and her letter (Ex.A-1) dated 10.12.1996 alleging police connivance are clearly self-serving and remain uncorroborated by any independent or contemporaneous material. The said letter, stated to have been sent through Under Postal Certificate (UPC), does not constitute cogent or substantive evidence and, in any event, cannot be relied upon to establish the essential facts of the accident.

No presumption is attached to the fact that document sent through UPC has



reached the addressee. No Police official was called to prove the version as contained in the claim petition was ever brought before the police. Unsubstantiated allegations of collusion, however serious, cannot by themselves substitute proof of negligence or the involvement of the offending vehicle. The learned Tribunal was justified in holding that such allegations, unsupported by independent evidence, could not be relied upon to displace the contemporaneous police record.

9. Significantly, the DDR recorded shortly after the incident attributes no fault to any person, records the accident as sudden, and categorically states that no action was required. The said DDR does not mention the number of the alleged offending truck or the name of its driver. No FIR under Sections 279/304-A IPC was ever registered against respondent No.1. Further, Charan Singh, at whose instance the DDR was recorded, was not examined as a witness, thereby depriving the claimant's case of a crucial link. These circumstances, taken cumulatively, materially weaken the version put forth by the claimants regarding the involvement of the insured vehicle and negligence on the part of its driver.

10. Apart from the aforesaid oral testimony, the claimants failed to place on record any independent eyewitness account, site plan, mechanical inspection report of the truck, seizure memo, or any other contemporaneous documentary evidence linking the insured vehicle with the accident or establishing rash and negligent driving. In the absence of such corroborative material, the learned Tribunal rightly declined to fasten fault liability merely on the basis of conjectures or belated allegations. Testimony of Khushi Ram was rightly disbelieved as he is not proved to be the eye witness of the accident. The findings recorded by the learned Tribunal on Issue No.1 are thus founded on a



careful and holistic appreciation of the evidence on record. The learned Tribunal applied the correct legal standard of proof applicable to proceedings under Section 166 of the Motor Vehicles Act and recorded reasons which are neither perverse nor based on misreading of evidence. No material has been pointed out before this Court to demonstrate that the conclusions drawn by the learned Tribunal are unreasonable or suffer from any infirmity warranting interference in appeal.

11. In view of these deficiencies, the claimants account cannot be accepted as reliable. It is well settled that a claimant must establish, at least on the balance of probabilities, the factum of the accident, the involvement of the offending vehicle, and rash and negligent driving by its driver. In the present case, the foundational facts regarding the manner of the accident and involvement of the insured vehicle remain unproved. The absence of contemporaneous material, non-registration of any FIR against respondent No.1, and lack of independent corroboration further fortify this conclusion. Mere allegations or subsequent explanations cannot substitute cogent proof of the essential facts.

12. 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. In the absence of proof of these essential elements, particularly negligence and involvement of the vehicle in the alleged accident, the claim cannot be entertained. The findings recorded by the learned Tribunal are, therefore, based on a sound appreciation of the evidence on record and in consonance with settled legal principles. However, since the death of the



deceased in a motor vehicular accident stood established, the learned Tribunal rightly invoked the principle of no-fault liability and confined the award to compensation under Section 140 of the Motor Vehicles Act. The grant of statutory compensation, in the absence of proof of negligence, reflects a correct application of law and strikes a just balance between the rights of the claimants and the statutory limitations governing fault liability.

13. Accordingly, the appeal is found to be devoid of merit and is, accordingly, **dismissed**.

14. Since the main appeals stand decided, the miscellaneous application(s), if any, stand disposed of accordingly.

06.02.2026
Poonam

(VIRINDER AGGARWAL)
JUDGE

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