



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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FAO-1792-2021(O&M)
Date of decision: 18.04.2026

Bharat Bhushan

...Appellant(s)

Vs.

Ashok Singla & Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Narender Pal Bhardwaj, Advocate
for the appellant.

Mr. Atul Aggarwal, Advocate
for respondent No.1.

Mr. Amrinder Sidhu, Advocate
for respondent No.2 (through VC).

NIDHI GUPTA, J.

Present appeal has been filed by the injured-claimant against the dismissal of his Claim Petition by the Motor Accident Claims Tribunal, Panchkula (hereinafter 'the learned Tribunal') vide Award dated 05.03.2021 passed in Case No.49 dated 09.03.2018 filed under Section 166 of Motor Vehicles Act (hereinafter "the Act").

2. The appellant had filed the present case alleging that he had suffered injuries in a motor vehicular accident that had taken place on 10.05.2017 due to the alleged rash and negligent driving of Car bearing



registration No.HR-03-Q-9690 (hereinafter “the offending vehicle”) being owned and driven by respondent No.1 and insured by respondent No.2. In respect of the same, the appellant had also registered FIR No.192 dated 15.05.2017 under Sections 279 and 337 IPC at Police Station Sector 5, Panchkula. However, vide the impugned Award, the claim petition of the appellant has been dismissed on account of the following reason: –

“15. The facts of the present case are very interesting and peculiar.

The claim petition under Motor Vehicles Act is to be decided on

preponderance of probabilities and unlike criminal law proof beyond reasonable doubt is not required. The claim petition filed by the claimant on preponderance of probabilities appears to be based upon improbable facts and it appears that the claimant has not approached the Tribunal with clean hands. My reasons in this regard are as under:-

(i) In the present case the stand taken by the claimant before the police at the time of registration of FIR, the stand taken in the claim petition filed before this Tribunal and stand taken before criminal court is different and rather self-contradictory. This is evident for the following reasons:-

a) In claim petition the claimant has stated that the offending vehicle was driven by respondent No.1, after the accident the driver stopped his car at some distance from the spot and slipped away. Rajni wife of respondent No.1 was present in the car at the time of accident and she shifted him to Noheria



Nursing Home for treatment from where he was referred to Mirchia's Diagnostic, Manimajra.

b) The FIR No.192 dated 15.05.2017 under sections 279 and 337 IPC, Police Station Sector 5, Panchkula Ex.P1 in the present case was registered on 15.05.2017 after five days of the accident. The said FIR was registered on the statement of claimant Bharat Bhushan, wherein the claimant had stated that the offending vehicle was being driven by lady whose name was subsequently heard by him as Rajni during his treatment and legal action was prayed for against driver Rajni. In the FIR itself it is also mentioned that he was taken in the offending vehicle for treatment to Noheria Hospital.

c) In the present claim petition when claimant was examined as PW5 during his cross-examination he specifically stated that the FIR in the present case was registered on his statement which was recorded after 5 days of the accident and on that day the statement given by him to the police was absolutely correct and it was made with full conscious of mind. He also stated that the police recorded his statement only once on 15.05.2017. He also stated that Rajni took him from the spot to Noheria Nursing Home and she alone shifted him from the spot. He also admitted that the respondent No.1 husband of Rajni reached Ortho Center, Panchkula and made the payment of charges. This evidence indicates that the husband of Rajni reached lateron.

d) In the criminal case which was registered by the police regarding the accident the claimant was examined as PW5, however, in his said statement he stated that the offending vehicle was driven by Ashok. His statement was recorded by



the police on 15.05.2017. A lady was sitting with Ashok and subsequently he came to know that by mistake he had mentioned in his statement dated 15.05.2017 that lady was driving the vehicle. He also stated that on 17.11.2017 another statement was given by him to the police to clarify that the vehicle was being driven by Ashok. This stand taken by the claimant in his evidence before the criminal court is contradictory to the statement given by him before this Tribunal in his evidence because when he was examined before this Tribunal he had stated in his cross-examination that the police recorded his statement only once on 15.05.2017. Interestingly, the statement of claimant was recorded in the criminal court on 14.03.2017, whereas his statement was recorded in the present case before this Tribunal on 15.11.2019. Thus even after two years of his evidence recorded in the criminal case the claimant in his cross- examination recorded in the present case stated that his statement was recorded only once on 15.05.2017, his statement was absolutely correct and was made with full conscious mind. This makes the case of the claimant highly improbable that the respondent No.1 was driving the offending vehicle, rather, it is more probable that it was Rajni who was driving the offending vehicle.

ii) During the evidence neither respondent No.1 nor Rajni were examined. Rajni could have been summoned by the claimant to corroborate and to confirm his stand that she was not driving the offending vehicle.



iii) No driving licence of Rajni was produced so as to dispel the theory that to escape the liability to pay compensation the driver of the offending vehicle was substituted.”

3. Consequentially, the Claim Petition filed by the appellant came to be dismissed vide the impugned Award dated 5.3.2021.

4. It is also not disputed by learned counsel for the appellant that subsequently, the respondent No.1 was acquitted by the learned Judicial Magistrate, 1st Class, Panchkula vide judgment dated 19.12.2022 for the reasons given in Para 15 of the said judgment, which reads as follows: -

“15. First and foremost, there are major contradictions in the version of the star and most material witness of the prosecution i.e. the complainant namely Bharat Bhushan. He stated to the police in his complaint that the driver of the car was a woman whereas in his examination-in-chief before the Court he stated that the car was being driven by a person named Ashok and a woman was sitting with him. Further in his cross-examination he deposed that the incident is of 14.05.2017. Self stated that he had told this by mistake while the date of the incident is of 10.05.2017. The time was around 1.45 in the afternoon and the place of incident is right turn in front of Bhajan Lal kothi in Sector-8. Further admitted that after the accident, he took the picture of the car with his mobile but the same has not been placed on record. Further stated that when he took the photo of the car, the accused Ashok was not present there. Self stated he does not know whether he was there or not because of the crowd gathered



there. Further stated that after the accident, a woman first took him to Nohria Hospital and when he was under treatment then he heard the name of that woman as Rajni. Further deposed that he was never called by the police to identify the accused. Thus, the entire version of the complainant suffers from major infirmities and contradictions. Through the version of the complainant the identity of the accused is not established. Even the identity of alleged car with which the accident took place was not identified. The complainant during his deposition time and again admitted that he took the photograph of the car in question. However, the said photograph was never produced during the investigation or during the trial. Thus, this is the major lacuna on the part of the prosecution.”

5. When confronted with the above, learned counsel for the appellant is unable to dispute the same, or give any satisfactory answer for the completely contradictory stands taken by the appellant.

6. Learned counsel for respondent No.1/alleged owner and driver of the offending vehicle submits that in fact, no accident had taken place with the vehicle of respondent No.1; and that respondent No.1 had been falsely implicated by the appellant in the case.

7. A bare reading of the above facts shows that the appellant has turned turtle on his previous statement. No doubt, proceedings under the Act have to be decided on the preponderance of probabilities. However, this Court cannot shut its eyes in an ostrich like manner to



the starkly diametrically opposite stance taken by the claimant in the criminal trial. Thus, no credence can be attributed to the contrary statements made by the claimant side before the learned Tribunal. It would therefore appear that the claimant had deposed falsely before the Tribunal only to get the compensation. In such a situation, reference may be made to a judgment of this Court in **“United India Insurance Company Limited Vs. Kamla Devi & Others” (P&H) : Law Finder Doc Id # 251230** wherein it has been held that:

"5. It should still have been possible for the Tribunal to take a decision uninfluenced by any decision that may have come before the criminal court. The several decisions which have come about on this issue are to the effect that a judgment in a criminal court is not binding on the Tribunal; the non-filing of a FIR is not material; even the fact of involvement of the vehicle as found by the criminal court is not binding. While the Tribunal is competent to assess the evidence which is brought before it and take an independent decision, then the point that has to be seen is whether there was any evidence worth its name before the Tribunal to come a finding that the particular vehicle was involved in the accident. It can be either that the version of Sitar Mohd. cannot be relied for he has contradicted himself wholesale with the version given before the criminal court or looked for other evidence which was placed before the Court. Alternatively if any explanation had been given by the witness as to why he deposed falsehood before the criminal court, even such an explanation could have been accepted to enter a finding that the accident took place only involving the particular in-



sured's vehicle. In this case, no explanation has been given by the witness as to why he stated before the criminal court that he did not know which vehicle was involved in the accident. He would, on the other hand, defy that he ever made any such statement before the criminal court, necessitating the statement made before the criminal court to be exhibited for contradiction before the Tribunal. It must be remembered a statement in criminal court case by a witness is also on oath. If he was uttering falsehood, he was liable for perjury. If there was contradiction between the version elicited before the Tribunal to the statement made before the criminal court then such a witness will be unworthy of acceptance. The Tribunal could have simply rejected the whole evidence. If it was going to pick out one line from chief examination to say that the insured's vehicle was involved in the accident, the Tribunal was doing something which is not a judicial function but a travesty of justice."

8. The above said view has been reiterated by this Court in **"Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others"** FAO-2231-2014 decided on 03.12.2019, wherein it is held as under:-

*"(6) This Court cannot loose sight of the judgment rendered by this Court in the case of **United India Insurance Company Limited versus Kamla Devi and others**, wherein it was specifically held that in case an eye witness gives totally different version before the Court conducting trial in criminal case from the statement made by the said eye witness before the Tribunal, the testimony of such a witness is unworthy of being accepted and the evidence should be simply rejected. In fact, the learned Single Bench came down heav-*



ily on such witness and held that the said witness is also liable for perjury.”

9. In view of the above, present appeal stands **dismissed**.
10. Pending application(s) if any also stand(s) disposed of.

18.04.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No