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

FAO-2362-2022 (O&M)

Date of Decision : 18.02.2026

CHAMKAUR SINGH @ KAURA AND ANR

.... Appellants

VERSUS

SWARANJIT KAUR AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Raj Kumar Chandana, Advocate for the appellants.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the appellants (the driver and the owner of the offending truck) aggrieved by the award passed by the Motor Accident Claims Tribunal, Moga (hereinafter referred to as 'the Tribunal') dated 02.12.2021. The parties are referred to as the claimants, the insurance company, the driver and the owner for the sake of clarity.

2. Briefly facts relevant to the present *lis* are that some work of construction of bathroom was going on in the house of the claimants and for that purpose they had called Lovepreet Singh @ Lavi son of Gurmeet Singh, resident of Village Buraj Hamira. On 01.09.2020, Amarjit Singh (since deceased) along with said Lovepreet Singh @ Lavi had gone to Baghapurana on their motorcycle make HF-Delux (Honda) bearing registration No.PB-29W-7336 for withdrawal of money from the bank. At that time Swaranjit Kaur along with Bhinder Singh, brother of Amarjit Singh (since deceased), were following them on their separate motorcycle. When all of them were

coming back from Baghapurana towards their Village and reached near the house of Hanka Singh Brar near G.T. Road Smalsar, at about 10:30 am, one LP truck make Tata bearing registration No.PB-04B-9832 came, which was being driven by its driver at a high speed and in a rash and negligent manner, and struck the same into the motorcycle of Amarjit Singh from behind due to which Amarjit Singh and Lovepreet Singh @ Lavi fell down on the road. Amarjit Singh received multiple injuries and both of them became unconscious. The accident was witnessed by Swaranjit Kaur and Bhinder Singh, who stopped their motorcycle and took Amarjit Singh to Medi City Hospital, Moga where the doctors declared him dead. It was alleged that the accident took place due to the negligent driving of the driver. FIR No.91 dated 01.09.2020, under Sections 304-A, 279, 427, 337, 338 IPC was registered against the driver on the statement of Swaranjit Kaur.

3. On notice, the driver and the owner appeared and filed their joint written statement taking various preliminary objections. On merits the factum of the accident was denied. It was averred that the police had registered a false case against the driver just to drag him in a false litigation.

4. Replication was filed. On the basis of the pleadings of the parties the following issues were framed :

1. Whether Amarjit Singh had died in a motor vehicular accident on 01.09.2020 near house of Hanka Singh Brar, G.T. Road Smalsar, Tehsil Baghpaurana, District Moga, caused by respondent No.1 while driving

truck make Tata bearing registration No.PB-04B-9832 in a rash and negligent manner ? OPP

2. Whether the claimants are entitled to get compensation, if so to what extent and from whom ? OPA

3. Whether the claim petition is not maintainable ? OPR

4. Whether the claimants have no *locus standi* to file the present claim petition ? OPR

5. Relief.

5. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹9,000
2.	Annual income	[₹9,000 x 12] = ₹1,08,000
3.	Future prospects @40%	[₹1,08,000 + ₹43,200] = ₹1,51,200
4.	Deduction @1/4 th	[₹1,51,200 - ₹37,800] = ₹1,13,400
5.	Multiplier of 16	[₹1,13,400 x 16] = ₹18,14,400
6.	Funeral expenses	₹16,500
7.	Loss of estate	₹16,500
8.	Loss of consortium	[₹44,000 x 5] = ₹2,20,000
	Total Compensation	₹20,67,400
	Interest	@ 7.5% per annum

Aggrieved by the same, the present appeal has been preferred by the driver and the owner of the offending truck.

6. Learned counsel for the driver and the owner would contend that the FIR was lodged against an unknown person and that being so, the claim petition ought to have been dismissed. It is further the contention of the

learned counsel that the Tribunal was swayed by the fact that the report under Section 173 CrPC (Ex.C3) had been filed. Learned counsel would contend that the cause of death has been shown as injury to the lung which is stated to be *ante mortem*.

7. Heard.

8. In the present case Swaranjit Kaur had stepped into the witness box as CW1. She was the eyewitness. The FIR was registered on her statement and subsequently a report was filed under Section 173 CrPC (Ex.C3) against the driver and he admittedly faced trial. Certified copy of the statement of the eyewitness recorded in the criminal case was tendered in evidence as Ex.C4. The offending truck hit the motorcycle of the deceased from behind. The accident was witnessed by CW1 Swaranjit Kaur who stated that the truck was being driven in a rash and negligent manner by its driver. Registration of the FIR and filing of report under Section 173 CrPC are *prima facie* proof of rash and negligent driving by the driver of the offending truck and is sufficient evidence to establish his negligence in view of the judgment of the Hon'ble Supreme Court in the case of **Ranjeet & Anr. Vs. Abdul Kayam Neb & Anr. [2025 SCC OnLine SC 497]**.

9. Further, a perusal of the impugned award reveals that the Tribunal had given weightage to the evidence recorded before it. The Hon'ble Supreme Court in the case of **National Insurance Company Limited Vs. Chamundeswari & Ors. [2021 (4) RCR (Civil) 494]**, while holding that the weightage has to be given to the evidence recorded before the Tribunal over the contents of the FIR, held as under :

'8. It is clear from the evidence on record of PW-1 as well as PW-3 that the Eicher van which was going in front of the car, has taken a sudden right turn without giving any signal or indicator. The evidence of PW-1 & PW-3 is categorical and in absence of any rebuttal evidence by examining the driver of Eicher van, the High Court has rightly held that the accident occurred only due to the negligence of the driver of Eicher van. It is to be noted that PW-1 herself travelled in the very car and PW-3, who has given statement before the police, was examined as eye-witness. In view of such evidence on record, there is no reason to give weightage to the contents of the First Information Report. If any evidence before the Tribunal runs contrary to the contents in the First Information Report, the evidence which is recorded before the Tribunal has to be given weightage over the contents of the First Information Report. In the judgment, relied on by the appellant's counsel in the case of Oriental Insurance Company Limited v. Premlata Shukla and Others, 2007 (13) SCC 476, this Court has held that proof of rashness and negligence on the part of the driver of the vehicle, is therefore, sine qua non for maintaining an application under Section 166 of the Act. In the said judgment, it is held that the factum of an accident could also be proved

from the First Information Report. In the judgment in the case of Nishan Singh and Others v. Oriental Insurance Company Limited, 2018 (6) SCC 765, this Court has held, on facts, that the car of the appellant therein, which crashed into truck which was proceeding in front of the same, was driven negligently by not maintaining sufficient distance as contemplated under Road Regulations, framed under Motor Vehicles Act, 1988. Whether driver of the vehicle was negligent or not, there cannot be any straitjacket formula. Each case is judged having regard to facts of the case and evidence on record. Having regard to evidence in the present case on hand, we are of the view that both the judgments relied on by the learned counsel for the appellant, would not render any assistance in support of his case’.

Keeping in view the fact that the challan was filed in the present case and the eyewitness clearly corroborated the story even before the Tribunal and withstood the cross-examination is sufficient proof of the accident having taken place in the manner as stated.

10. The argument of the learned counsel for the driver and the owner that the postmortem report (Ex.C2) states that the cause of death was shown as injury to the lung and was *ante mortem* in nature hence the claim petition ought to have been dismissed deserves to be rejected. Ex.C2 which is the postmortem report clearly states that the death occurred due to hemorrhage

shock and injury to the lung and liver which is *ante mortem* i.e. prior to the conducting of the postmortem. *Ante mortem* refers to ‘the period or events occurring before death’. In legal and medical contexts, it describes injuries, records, or examinations conducted while a person or animal is still alive, distinguishing them from postmortem (after death) findings. It is commonly used in forensic investigations to differentiate injuries sustained before death from those occurring after. The injuries were received as a result of the accident and as such the argument of the learned counsel for the driver and the owner cannot be accepted.

11. In view of the above, I do not find any merit in the present appeal and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

18.02.2026
Aman Jain

(ALKA SARIN)
JUDGE

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