



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

**FAO-1188-2005 (O&M)
Date of Decision:01.04.2026**

BHARAT SINGH

..... Appellant

VERSUS

GURMEET KAUR AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Neeraj Khanna, Advocate
for the appellant.

None for respondent No.1.

None for respondents No.2 to 6.

Mr. Sandeep Suri, Advocate
for respondent No.7- National Insurance Company.

YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal has been instituted by the owner of the offending vehicle bearing No.DL-1P-5915 against the award dated 28.08.2004 vide which he along with driver has been held liable to pay compensation to the claimants on account of death of Avtar Singh and Insurance Company has been absolved of its liability to pay any compensation to the claimants.
2. Case of claimants is that on 03.11.2002, Avtar Singh (since deceased) was coming from Ladwa and was going towards his village Niwarsi on motorcycle No.HR-06-5899, which was being driven by him



at a normal speed and on the left side of the road. A bus bearing registration No.DL-1P-5915 (**hereinafter referred to as ‘offending vehicle’**) was going ahead of his motorcycle which was being driven by respondent No.1 in a rash and negligent manner. Avtar Singh (since deceased) was trying to overtake the bus and he had blown horn for this purpose and thereafter, respondent No.1-driver gave a signal to him to overtake the bus. However, when Avtar Singh was in the process of overtaking the bus, respondent No.1 suddenly turned his bus towards right side, as a result of which bus hit the motorcycle and due to impact of the bus, Avtar Singh suffered multiple injuries including head injury. The accident was witnessed by Gurdial Singh and Jagtar Singh, who took him to the hospital for treatment but he died during the treatment. FIR No.203 dated 05.11.2002 under Sections 279, 337 and 304-A of IPC was registered regarding the accident in question at Police Station Ladwa against respondent No.1. The claim petition was filed by the wife, minor children and mother of the deceased, claiming compensation on account of death of Avtar Singh.

3. Respondents No.1 and 2 filed their joint written statement and opposed the petition preliminarily on the grounds of locus standi, mis-joinder and non-joinder of the necessary parties and cause of action. It is submitted that the vehicle was insured with respondent No.3 at the time of accident and respondent No.1 was having a valid and effective driving licence to drive the vehicle in question. Material contents of the petition with regard to the manner of accident have been refuted to be



wrong. Rather, it is submitted that no accident had taken place with the bus in question. It is further submitted that the motorcyclist himself was rash and negligent and he came to the wrong side of the road without blowing any horn and dashed his motorcycle in the bus from the behind and no accident was caused by respondent No.1. Dismissal of the claim petition has been sought.

4. Respondent No.3-Insurance Company in its written statement has alleged that there was violation of terms and conditions of the policy and provisions of Motor Vehicle Act. The driver was not having a valid and effective driving license and Insurance Company is not liable to indemnify the insured. It is further submitted that bus in question was not insured with the answering respondent at the time of accident as is clear from the cover note supplied by respondents No.1 and 2 along with their written statement and the petition against respondent No.3 is thus not maintainable.

5. From the pleadings of parties, following issues were framed:-

1. *Whether the accident in question resulting in death of Avtar Singh, aged 35 years, was caused on dated 03.11.2003 at about 7.00 A.M. in the area of village Niwarsi due to rash and negligent driving of bus bearing no. DL-1P-5915 by its driver Jaswant Singh @Guddu-respondent no. 1 or of motor cycle no. HR-06-5899 by its driver Avtar Singh (since deceased) or of both? OPP*
2. *If issue no. 1 is proved, whether the claimants are*



entitled to compensation, if so, how much and from whom? OPP

3. *Whether the claimants have no locus standi to file and maintain the claim petition? OPR*
4. *Whether the petition is not maintainable in the present form? OPR*
5. *Whether respondent no. I was not holding a valid and effective driving license at the time of accident? OPR*
6. *Whether the claimants have no cause of action or locus standi to file and maintain the present claim petition? OPR*
7. *Whether the claim petition is bad for non joinder of necessary parties? OPR*
8. *Relief*

6. Thereafter, the parties led evidence in support of their case.

7. Learned Tribunal after going through the evidence led on file came to the conclusion that accident in question, resulting in death of Avtar Singh, had taken place on account of rash and negligent driving on the part of respondent No.1 while driving the offending vehicle. It was further held that the vehicle was not insured with respondent No.3 as on the date of accident. A sum of Rs.4,28,770/- was awarded as compensation to the claimants payable by respondents No.1 and 2 jointly and severally and the claim petition against the Insurance Company was dismissed.

8. Feeling aggrieved, the appeal in hand has been instituted by the owner. The material on file has been perused and parties have been



heard.

9. Learned counsel for appellant argued that the impugned award is based on conjectures and surmises. The pleading of parties and evidence on file have not been appreciated in the correct perspective. Learned counsel further contended that infact the offending vehicle was parked on the road side and the motorcyclist had hit it from behind while the bus was in a stationary condition and accident in question took place solely due to rash and negligent driving on the part of motorcyclist himself and learned Tribunal has wrongly held the driver of offending vehicle to be rash and negligent while giving finding on Issue No.1. Learned counsel further contended that the vehicle was duly insured with the Insurance Company. The premium was paid to the Insurance Company through cheque on 02.11.2002 at 11.00 AM but the cover note was issued on the next day and since premium had already been paid, the Insurance Company would be liable to indemnify the insured as the policy will become effective from the date when the premium was accepted by the Insurance Company. Learned counsel prayed that the liability to pay compensation be fastened upon the Insurance Company and appellant may be absolved of the liability to pay the compensation and appeal be accepted.

10. On the other hand, learned counsel for Insurance Company argued that the plea raised by the owner that he had paid the insurance premium to RW2-Subhash Bhatia on 02.11.2002 in the presence of some person has not been proved by him. The premium was allegedly paid



through cheque but no counterfoil has been led in evidence. No record from the bank too has been summoned to establish that the cheque was issued on 02.11.2002 and rather, it has not been established that the premium was paid through cheque. Learned counsel further contended that the policy was issued on 03.11.2002 at 4.00 PM and the insurance policy will thus come into force from 03.11.2002 at 4.00PM whereas the accident had taken place on 03.11.2002 at 07.00 AM and as such, the vehicle was not insured at the time of accident and Tribunal has rightly arrived at this conclusion after appreciating the evidence in the correct perspective. Learned counsel contended that appeal in hand is meritless and same is liable to be dismissed.

11. In order to prove rash and negligent driving on the part of respondent No.1, the claimants have examined PW1-Gurdial Singh, who is author of the FIR and had witnessed the accident. He deposed that on 03.11.2002, at about 07.00 AM, he was proceeding towards his fields. When he reached in front of Talwar's field, one bus bearing No.DL-1P-5915 came from the side of Ladwa, which was going towards village Niwarsi, being driven by respondent No.1-Jaswant Singh. In the meantime, Avtar Singh (since deceased) also came from Ladwa side, who was also going towards village Niwarsi on his motorcycle bearing No.HR-68-5899. The bus driver gave a signal to him to overtake the bus and when his brother Avtar Singh was in the process of overtaking the bus, the driver of the bus suddenly turned the bus towards the right side in a rash and negligent manner and bus hit the motorcycle, as a result of



which, his brother fell down and suffered injuries. He deposed that the accident in question took place solely due to negligence of respondent No.1. After the accident, he along with Jagtar Singh took Avtar Singh to Government Hospital, Ladwa from where he was referred to L.N.J.P. Hospital, Kurukshetra and finally to PGI, Chandigarh. His brother remained admitted in PGI, Chandigarh for three months but he succumbed to the injuries on 18.02.2023. He had given statement Ex.PA to the police on the basis of which formal FIR bearing No.203 dated 05.11.2002 under Sections 279, 337 and 304-A of IPC was registered at Police Station Ladwa. During cross-examination, he stated that the road was 15 feet wide and there was 3 feet kacha berm on each side of the road. He had informed the police about the accident on the same day but his statement was recorded when he returned from PGI on the next day. He stated that bus remained parked on the right side of the road after causing the accident while motorcycle was lying in the fields after the accident in the kacha portion of the road. He stated that he was also coming from behind and was at a distance of about one acre. He stated that bus was being driven at a speed of around 50 kms per hour while motorcycle was being plied at the speed of about 35 kms per hour. He denied the suggestion that motorcycle had struck the stationary bus.

12. To rebut the testimony of PW1, respondent No.1 himself stepped into the witness-box as RW-3. He deposed that on 03.11.2002, he had gone to village Niwarsi for bringing a marriage party in bus No. DL-1P-5915 at about 07.00 AM. He parked the bus on the roadside on



Niwarsi-Ladwa road and in the meanwhile, deceased came from Ladwa side in a rash and negligent manner and struck against the parked bus from behind resulting in injuries on his person. He stated that accident took place solely due to negligence of the deceased himself and he has been falsely challaned by the police. During cross-examination, he admitted that he has not filed any complaint or moved any application to Superintendent of Police, Deputy Commissioner or any higher authority regarding his false implication in the criminal case. He stated that bus remained parked at the spot. He admitted that the criminal case/challan filed against him is pending.

13. In this manner, the respondent has admitted the accident but has tried to shift the liability upon the deceased himself with the allegations that he had struck his motorcycle against the stationary bus whereas nothing favourable could be extracted during cross-examination of PW1 and he has stuck to his stand that the deceased was overtaking the bus when respondent No.1 suddenly brought the bus towards right side and hit the motorcycle, resulting in injuries to the motorcyclist. Moreover, respondent No.1 while appearing as RW3 has admitted that he has not filed any complaint before higher authorities against his false implication. However, it is highly improbable that he would have remained a mute spectator in case he had been falsely implicated and would have certainly approached the higher authorities against his false implication and this circumstance alone goes to show that accident in question had taken place due to rash and negligent driving on his part. In



holding so, I have relied upon 2008(2) RCR (Civil) 72 (P&H), **Sudama Devi and others Vs. Kewal Ram and others.**

14. Moreover, police after conducting the investigation has challaned him and he has admitted that he is facing the trial. It has been held by a Coordinate Bench of this Court in 1993(2) PLR 109 – **Girdhari Lal Vs. Radhe Shyam and others**, that if the driver of the offending vehicle has been challaned by the police and is facing trial for causing accident due to rash and negligent driving, it is safe to presume that accident had taken place due to rash and negligent driving on his part. Hon'ble Supreme Court while deciding Special Leave to Appeal (C) 10351/2019 titled **Ranjeet and another Vs. Abdul Kayam Neb and another** vide judgment 25.02.2025 has held that once a charge-sheet has been filed and the driver has been held to be negligent, no further evidence is required to prove that offending vehicle was being driven negligently by its driver. Learned Tribunal has also appreciated the evidence on file in the correct perspective while coming to this conclusion and there is no reason to take a contrary view. Accordingly, finding on Issue No.1 is affirmed.

15. The owner of the offending vehicle namely Bharat Singh has stepped into the witness-box as RW6 and deposed that he is owner of the offending bus. He had got it insured from respondent No.3 on 02.11.2022 and had paid the premium to Subhash Bhatia (RW2) in the presence of one agent but he does not remember the name of said agent. He had paid him Rs.15,215/- as premium on 02.11.2002 at 11.00 AM at Shahabad in



his office but the cover note was handed over to him on the next day. During cross-examination, he admitted that accident took place on 03.11.2002 at 07.00 AM. He stated that on 02.11.2002, he had given cheque for an amount of Rs.15,215/- to Sh. Subhash Bhatia. He denied the suggestion that he had paid the premium to Sh. J.N. Arora, Development Officer on 03.11.2002 at 04.00 PM. He admitted that he does not have any counterfoil of the cheque given to RW2-Subhash Bhatia. He further admitted that he has not made any complaint to the Senior Officers of the company about insurance having been issued at a later stage.

16. In this manner, as per version of RW6, he had paid the premium through cheque dated 02.11.2002 and if it was so, he could have summoned the bank record to show that the cheque had been issued on 02.11.2002 but the said record has not been summoned. On this account, an adverse inference has to be drawn against respondent No.2 that had he led this evidence, it would not have supported his version. Learned Tribunal has also come to the conclusion that no cogent and convincing evidence has been led by respondent No.2 except his self-serving and bald statement that he had paid the premium on 02.11.2002 and the policy had been issued on the next day. Once, a plea had been taken that premium had been paid on 02.11.2002, heavy onus lay upon respondent No.2 to prove this fact but no cogent and convincing evidence has been led to prove this fact and accordingly, Insurance Company had rightly issued the insurance policy on 03.11.2002 at 04.00 PM. The accident had



taken place on 03.11.2002 at 07.00 AM and at that time, the vehicle was not insured and Insurance Company has rightly been absolved of its liability. Finding on Issue No.2 is also affirmed.

17. Findings on remaining Issues have not been assailed. Even otherwise, in view of finding on Issue No.1, it is established that accident in question had taken place due to rash and negligent driving on the part of respondent No.1 and as such, claimants had the locus standi and cause of action to file the present petition and petition in the present form was maintainable. Findings on remaining Issues No.3, 4, 6 and 7 are also affirmed.

18. As a result of aforesaid discussion, there is no merit in this appeal and the same is ordered to be dismissed with costs.

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

(YASHVIR SINGH RATHOR)
JUDGE

01.04.2026
Priyanka Thakur

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No