



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

(225)

FAO No. 3325 of 2005(O&M)

Date of Decision: 09.03.2026

Rama Devi

...Appellant

Versus

Balbir Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Anuj Y.Attri, Advocate
for the Appellant.

Mr. Deepak Suri, Advocate
for the Respondent No. 3/Insurance Company.

VIRINDER AGGARWAL,J. (ORAL)

1. The present appeal has been preferred by the claimant–appellant challenging the award dated 14.03.2005 passed by the learned Motor Accident Claims Tribunal, Rohtak, whereby the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Vijay Kumar in a motor vehicular accident was dismissed.

BACKGROUND FACTS

2. The brief facts of the case are that on 04.10.2001, Vijay Kumar (since deceased), aged about 35 years was driving a trailer bearing registration No. HR-35F-7281, towards Mumbai from S.R. company, Hajira, loaded with coal. It is the case of the appellant that the deceased was accompanied by a co-driver in another truck No. HR-32B-0016, with Partap Singh driving a third truck behind them. At about 4:00 A.M., when the vehicles reached near the Menure area on the highway, a lorry bearing registration No. DL-1G-3595, allegedly being driven by respondent No.2 in a rash and negligent manner, came from the



opposite direction and collided head-on with the trailer driven by the deceased. As a result of the said accident, Vijay Kumar sustained grievous injuries and later succumbed to them. Consequently, the claimants filed a claim petition before the Motor Accident Claims Tribunal, Rohtak, seeking compensation on account of the death of Vijay Kumar in the aforesaid accident.

3. Upon appreciation of the evidence on record, the learned Tribunal held that although the appellant failed to prove the occurrence of the accident involving the alleged offending vehicle, namely lorry bearing registration No. DL-1G-3595, or rash and negligent driving on the part of respondent No.2. The learned Tribunal disbelieved the testimony of the purported witness, Krishan (PW2, brother of the deceased), holding it to be unreliable and afterthought, particularly in the absence of any plausible explanation for the contradictions with the contemporaneous police version. Further, the learned Tribunal noticed that the earliest version reflected in the police report (Ex. PE2) and Partap Singh's information (Ex. P4) indicated that the deceased had veered onto the wrong side on a 24-foot-wide road with 5-foot margins, causing the collision, and that no FIR was lodged due to the deceased's fault. The police investigation culminated in an untraced report, duly proved by the investigating officer. In these circumstances, the subsequent introduction of the lorry DL-16/3595 and its driver was held to be an afterthought. Further, in the absence of reliable and independent evidence connecting the death of the deceased with the alleged offending vehicle or establishing rash and negligent driving by respondent No.2, the learned Tribunal held that the appellant failed to prove the foundational facts of the case and consequently dismissed the claim petition vide award dated 14.03.2005.

CONTENTIONS



4. Learned counsel for the appellant assailed the impugned award as being contrary to law and the evidence on record. It was contended that the learned Tribunal erred in disbelieving the testimony of PW2 (Krishan), who was projected as a material witness to the accident, on the basis of alleged minor contradictions and his interested status, while overlooking the fact that his version was cogent, detailed, and stood corroborated by the police report Ex. P2 and the benevolent object of the Motor Vehicles Act, 1988. It was further argued that the learned Tribunal committed a grave error in giving undue weight to the unproved panchnamas (Marks D2 and D3) and drawing adverse inferences from the police report (Ex. PE2) and Partap Singh's statement (Ex. P4), which, according to the appellant, actually supported the claimant's version of rash and negligent driving by respondent No.2. Learned counsel submitted that the learned Tribunal misappreciated the evidence on record and based its conclusions on conjectures and surmises, while ignoring material documentary evidence, including the English transliteration of the information (Ex. P4) and the post-mortem details (Mark D4). On these premises, learned counsel prayed for setting aside the impugned award and for grant of just and adequate compensation to the appellant.

5. On the other hand, learned counsel appearing for the respondent no.3 supported the impugned award and submitted that no interference by this Court is warranted. It was contended that the learned Tribunal has meticulously appreciated both oral and documentary evidence and has recorded well-reasoned findings of fact, which do not suffer from perversity or misapplication of law.

OBSERVATIONS AND FINDINGS

6. I have heard learned counsel for the parties and have carefully perused the



record, including the pleadings, oral and documentary evidence, and the impugned award passed by the learned Tribunal.

7. At the outset, this Court finds no infirmity in the approach adopted by the learned Tribunal in insisting upon proof of the foundational facts of the accident. In a claim petition under Section 166 of the Motor Vehicles Act, 1988, the burden squarely lies on the claimant to establish, at least on the touchstone of preponderance of probabilities, the factum of the accident, the involvement of the offending vehicle, and rash or negligent driving by its driver. Mere proof of death or dependency, howsoever tragic, cannot dispense with proof of negligence.

8. The principal plank of the appellant's challenge rests upon the testimony of Krishan (PW2), the brother and co-driver of the deceased. Though relationship or interest per se does not render a witness unreliable, it is equally well settled that such testimony must inspire confidence in the mind of the court and ordinarily requires corroboration from independent or contemporaneous evidence. On close scrutiny, this Court finds that the version of a head-on collision caused by the offending lorry's rash and negligent driving suffers from inherent improbabilities, particularly when juxtaposed with the police report (Ex. P2) scribed by Assistant Sub-Inspector R.S. Chavan. PW2 deposed that he sent Partap Singh to report the matter, but no FIR was registered, and only a written report (Ex. P2/PE2) was reduced. However, in cross-examination, PW2 admitted to driving trucks for 2-3 years, which was not directly relevant but underscored the lack of independent corroboration. Moreover, the English transliteration of Ex. PE2 (entry No. 225/01) explicitly states that the motor trailer HR-32F/7289 hit the lorry by coming onto the wrong side on a 24-foot-wide road with 5-foot margins, with the deceased Vijay Kumar Sharma at fault,



as confirmed by five panch witnesses examined at the spot. Partap Singh's information (Ex. P4) similarly narrates that he was ahead but returned to the scene, reinforcing the deceased's negligence.

9. Equally significant is the first version recorded in the police report (Ex. P2), which came to be noted about 30 minutes after the accident at 4:30 A.M. The report does not disclose rash and negligent driving by any oncoming lorry but attributes fault to the deceased for veering onto the wrong side. The investigating officer proceeded to the spot, referred the injured to Manor dispensary and then Bhagwati Hospital, where the deceased died en route without speaking. Though proceedings before the learned Tribunal are independent of the criminal investigation, the learned Tribunal is not precluded from considering the police report and investigation as relevant material, particularly where the claimant's own evidence does not inspire confidence. The appellant's counsel tendered only the English transliterations of Ex. P2/PE2 and Ex. P4, while respondent No.3 tendered photocopies of the accident form (Mark D1), spot panchnama (Mark D2), inquest panchnama (Mark D3), and PMR (Mark D4), which, though not formally proved by oral evidence, align with Ex. PE2 and were not rebutted.

10. In ***Surender Kumar Arora v. Dr. Manoj Bisla***, (2012) 4 SCC 552, the Supreme Court held that the claimant must establish by cogent evidence the factum of the accident, negligence, and the involvement of the vehicle, even on preponderance of probabilities. Similarly, ***Oriental Insurance Co. Ltd. v. Meena Variyal***, (2007) 5 SCC 428, reiterates that where foundational facts are disputed, strict proof thereof is essential even in motor accident claims. The findings recorded by the learned Tribunal are thus based on a sound appreciation of evidence and settled legal principles and do not warrant



interference.

11. In view of the aforesaid deficiencies, the claimant's version cannot be held to be reliable. It is well settled that a claimant must establish, at least on a 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 appellant has failed to discharge this burden, as the foundational facts remain unproved. The learned Tribunal was, therefore, justified in holding that the burden of proof rested upon the appellant and was not discharged. This conclusion is further reinforced by the surrounding circumstances on record, including the untraced police report, the absence of an FIR, and the lack of independent corroboration, which cumulatively give rise to a legitimate doubt regarding the genuineness of the claim.

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

13. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

(VIRINDER AGGARWAL)
JUDGE

09.03.2026
Saurav Pathania

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