

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

(226)

**FAO No. 366 of 2005 (O&M)
Date of Decision: 11.03.2026**

Raj Bala and others

...Appellants

Versus

Naresh Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. B.S. Walia, Advocate and
Mr. Deep Inder Singh Walia, Advocate
for the appellants.

Ms. Madhu Sharma, Advocate
for the respondent no. 3- Insurance Company.

VIRINDER AGGARWAL, J. (Oral)

1. The present First Appeal against Order has been filed by the appellants-claimants assailing the judgment and award dated 28.07.2003 passed by the learned Motor Accident Claims Tribunal, Hisar, whereby the claim petition instituted under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of the death of Bhoop Singh in a motor vehicular accident was dismissed. The appellants had sought compensation to the tune of ₹10,00,000/- on account of the death of Bhoop Singh allegedly caused in an accident involving Maruti Van bearing registration No. CHF-0942 driven by respondent No.1 Naresh Kumar.

BACKGROUND FACTS

2. The case set up by the claimants before the learned Tribunal was that on 24.08.2001, deceased Bhoop Singh was going to his native village Jakhod Khara from Hisar in the morning hours on his motorcycle bearing registration



No. HR-20-A-6345. He had started his journey from Masat Nath Colony, Hisar Cantt. It was alleged that the deceased was driving his motorcycle at a moderate speed and was observing all traffic rules. When he reached near Bye-Pass TCP No.3 Gate on G.T. Road, i.e. Delhi Road, Hisar Cantt., a Maruti Van bearing registration No. CHF-0942 being driven by respondent No.1 in a rash and negligent manner and at a high speed struck against the motorcycle. Due to the impact of the collision, Bhoop Singh sustained serious injuries and succumbed to the injuries at the spot. It was further alleged that the accident was witnessed by Ishwar Singh son of Deep Chand. It was further pleaded that the deceased was working as a property dealer and was also an ex-serviceman and was earning more than ₹10,000/- per month. Petitioner No.1 Raj Bala is the widow of the deceased, whereas petitioners No.2 to 4 are the minor children of the deceased. On these premises, the claimants sought compensation to the tune of ₹10,00,000/- from the driver, owner and insurer of the offending vehicle.

3. Upon notice, respondents No.1 and 2 appeared before the learned Tribunal and filed a joint written statement raising preliminary objections that the claim petition was false, frivolous and vexatious and that the petitioners had no locus standi or cause of action. It was further pleaded that the petition was bad on account of mis-joinder and non-joinder of necessary parties. On merits, the involvement of Maruti Van No. CHF-0942 in the alleged accident was specifically denied. It was pleaded that the deceased himself was driving the motorcycle in a rash and negligent manner and that the respondent No.1 had taken his vehicle to the extreme left side, yet the motorcyclist struck against the Maruti Van. Respondent No.3-Insurance Company also filed a separate written statement raising preliminary objections, inter alia, that the claim petition was not maintainable. It was specifically pleaded that the First Information Report

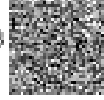


had been lodged against an unknown vehicle and unknown driver and that after a gap of about seven months the Maruti Van allegedly driven by respondent No.1 had been falsely involved in the case only with a view to claim compensation.

4. Upon appreciation of the oral and documentary evidence on record, the learned Motor Accident Claims Tribunal, Hisar concluded that the claimants had failed to establish that the accident occurred due to rash and negligent driving of Maruti Van bearing registration No. CHF-0942 by respondent No.1. The Tribunal noticed that the First Information Report (Ex.P3) had been registered against an unknown vehicle and unknown driver and that the statement of the alleged eye-witness Ishwar Singh (PW-3) under Section 161 Cr.P.C. was recorded after about seven months of the accident. Taking note of the fact that PW-3 did not report the matter to the police despite the police station being about one kilometre from the place of occurrence and that the family members of the deceased had also not disclosed the vehicle number or the driver's name to the police, the learned Tribunal held that the testimony of PW-3 was unreliable and concluded that the involvement of the aforesaid vehicle was not proved. Consequently, Issue No.1 was decided against the claimants and the claim petition was dismissed. Aggrieved by the dismissal of the claim petition, the appellants have filed this appeal.

CONTENTIONS

5.. Learned counsel appearing on behalf of the appellants contends that the learned Tribunal erred in dismissing the claim petition despite the fact that an eye-witness to the occurrence had been examined as PW-3 Ishwar Singh and the copy of the FIR had also been placed on record. It is submitted that the learned Tribunal has wrongly disbelieved the testimony of the eye-witness and



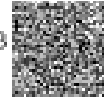
has erred in holding that the accident in question did not take place due to rash and negligent driving of Maruti Van bearing registration No. CHF-0942 by respondent No.1. It is further contended that the learned Tribunal has not returned any finding with regard to the quantum of compensation to which the appellants were entitled, although as per law the Courts are required to give findings on each issue.

6. Per contra, learned counsel appearing on behalf of the Insurance Company supports the impugned award and submits that the learned Tribunal has meticulously appreciated the evidence on record and has rightly concluded that the involvement of Maruti Van No. CHF-0942 in the accident was not proved.

OBSERVATIONS AND FINDINGS

7. I have heard learned counsel for the parties and have carefully perused the impugned award passed by the learned Motor Accident Claims Tribunal, Hisar. The principal controversy in the present appeal revolves around whether the accident resulting in the death of Bhoop Singh was caused by Maruti Van bearing registration No. CHF-0942 driven by respondent No.1 Naresh Kumar in a rash and negligent manner.

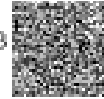
8. In order to substantiate their case, the claimants examined Mukesh Kumar, Criminal Ahlmad, as PW-1, Raj Bala as PW-2 and Ishwar Singh as PW-3. They also produced documentary evidence including copy of the driving licence (Ex.P1), copy of the MLR (Ex.P2), copy of the First Information Report (Ex.P3), copy of the site plan (Ex.P4), copy of the statement of Ishwar Singh recorded under Section 161 Cr.P.C. (Ex.P5) and copy of the ration card (Ex.P6). On the other hand, respondents examined Naresh Kumar as RW-1 and also produced documents including copy of remand papers (Ex.R1), copy of the report under Section 173 Cr.P.C. (Ex.R2), copy of order dated 13.03.2002



(Ex.R3) and copy of the insurance policy (Ex.R4).

9. The main reliance of the claimants was upon the testimony of PW-3 Ishwar Singh, who was examined as an alleged eye-witness to the accident. According to his deposition, after the collision the motorcycle of the deceased fell on the road and the driver of the Maruti Van disclosed his name as Naresh, while the injured stated that he was Bhoop Singh son of Kanshi Ram. PW-3 further deposed that he informed the relatives of Bhoop Singh about the accident, whereupon they reached the place of occurrence. However, during cross-examination PW-3 admitted that the police station was situated at a distance of about one kilometre from the place of accident and that he did not visit the police station on the same day to report the occurrence. He also admitted that his statement was recorded by the police nearly seven months after the accident. While appreciating this testimony, the learned Tribunal noticed that the First Information Report (Ex.P3) had been registered against an unknown vehicle and an unknown driver on the statement of Dharampal, the real brother of the deceased. The Tribunal observed that if PW-3 had in fact witnessed the accident and informed the family members on the same day, the complainant or other relatives could have disclosed to the police about the involvement of vehicle No. CHF-0942 and the name of its driver Naresh Kumar. The Tribunal further noticed that the statement of PW-3 under Section 161 Cr.P.C. (Ex.P5) was recorded on 02.03.2002, whereas the accident had occurred on 24.08.2001, thus indicating a delay of about seven months in recording the statement of the alleged eye-witness.

10. The learned Tribunal held that in such circumstances the information allegedly conveyed by PW-3 could have been reported to the police within a reasonable time by the complainant or the family members through a

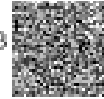


supplementary statement, yet no such step was taken. Consequently, the Tribunal concluded that the vehicle bearing registration No. CHF-0942 had been introduced in the case after considerable delay and only on the basis of the belated statement of PW-3 Ishwar Singh.

11. In view of these circumstances, the learned Tribunal found the testimony of PW-3 unreliable and held that the involvement of Maruti Van bearing registration No. CHF-0942 had not been established. Accordingly, the Tribunal returned a categorical finding that the claimants had failed to prove that the accident resulting in the death of Bhoop Singh occurred due to rash and negligent driving of respondent No.1 Naresh Kumar. Issue No.1 was therefore decided against the claimants.

12. Once the foundational fact regarding the involvement of the offending vehicle and negligence of the driver was not proved, the learned Tribunal rightly held that the claimants were not entitled to compensation under Section 166 of the Motor Vehicles Act. Having examined the reasoning adopted by the learned Tribunal and the evidence available on record, this Court finds that the findings so recorded are based upon the material on record and cannot be said to suffering from perversity or illegality. Once the identity and involvement of the vehicle itself becomes doubtful, the very foundation of the claim petition stands shaken. The claimants were required to establish that the accident occurred due to rash and negligent driving of the vehicle allegedly driven by respondent No.1. In the absence of reliable evidence establishing that Maruti Van bearing registration No. CHF-0942 was the vehicle involved in the accident, the learned Tribunal rightly decided Issue No.1 against the claimants.

13. In ***Surender Kumar Arora v. Dr. Manoj Bisla, (2012) 4 SCC 552***, the Hon'ble Supreme Court held that the claimant must establish by cogent



evidence the factum of the accident, negligence, and the involvement of the vehicle. 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.

14. In view of the aforesaid circumstances, this Court concurs with the learned Tribunal that the claimants failed to establish the involvement of the vehicle even on the touchstone of preponderance of probabilities. The foundational facts of the claim thus remain unproved. Consequently, the present appeal is found to be devoid of merit and is accordingly dismissed. The judgment and award dated 28.07.2003 passed by the learned Motor Accident Claims Tribunal, Hisar are hereby affirmed.

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

11.03.2026

Poonam

**(VIRINDER AGGARWAL)
JUDGE**

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