



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

(103)

FAO no. 3892 of 2005(O&M)

Date of Decision: 04.02.2026

Raghbir Singh And Others**... Appellants****Versus****Anil Kumar And Another****...Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Ms. Sangeeta Yadav, Advocate
for the appellants.

Mr. Sandeep Suri, Advocate
for respondent No.3/National
Insurance Company

Mr. R.C. Kapoor, Advocate
for respondent No.5/New India Assurance Company Ltd.

VIRINDER AGGARWAL,J.(ORAL)

1. The present appeal has been preferred by the appellant assailing the award dated 26.07.2005 passed by the learned Motor Accident Claims Tribunal, Narnaul, whereby the claim petition filed by the appellant for grant of compensation on account of death of Sanjay suffered in a motor vehicle accident on 10.07.2004 came to be dismissed.

BACKGROUND FACTS

2. The brief facts of the case are that on 10.07.2004, Sanjay (since deceased) was driving a Tata Sumo bearing registration No. HR-38-GT-5639 towards Faridabad. It is the case of the appellants that the said vehicle was hit from behind by Tata 407 bearing registration No. HR-47-A-5091, which was allegedly being driven rashly and negligently by respondent No.1, Anil Kumar.

Owing to the said impact, the Tata Sumo is stated to have rammed into a three-wheeler moving ahead, as a result of which both vehicles overturned. Sanjay



sustained fatal injuries in the accident and died at the spot. Consequently, the claimants filed a claim petition before the Motor Accident Claims Tribunal, Narnaul, seeking compensation on account of the death of Sanjay in the aforesaid accident.

3. Upon appreciation of the evidence on record, the learned Tribunal held that although the claimants had successfully established their status as the legal representatives and dependents of the deceased Sanjay, they failed to prove that occurrence was result of rash and negligent driving of offending vehicle, namely Tata 407 bearing registration No. HR-47-A-5091. The learned Tribunal disbelieved the testimonies of the purported eye-witnesses, Raghbir Singh (PW-2) and Sajjan Singh (PW-4), holding them to be interested and unreliable. Further, Raghbir Singh (PW-2) admitted during cross-examination that he was not an eye-witness to the accident, while Sajjan Singh's (PW-4) version was found to be uncorroborated and improbable, particularly in the absence of any plausible explanation for his failure to approach the police promptly, despite his assertion that his statement was recorded at a later stage. Further, the learned Tribunal noticed that the earliest version reflected in the FIR (Ex. P-1) did not disclose the particulars of any offending vehicle. The police investigation culminated in an untraced report, duly proved by Head Constable Daya Nand (RW-1). In these circumstances, the subsequent introduction of the Tata 407 bearing registration No. HR-47-A-5091 was held to be an afterthought. Further, in the absence of reliable and independent evidence connecting the death of the deceased with the alleged Tata 407 or establishing rash and negligent driving by respondent No.1, the learned Tribunal held that the claimants failed to prove the foundational facts of the case and consequently dismissed the claim petition.

**CONTENTIONS**

4. Learned counsel for the appellants assailed the impugned award as being contrary to law and is based upon misappreciation of the evidence on record. It was contended that the learned Tribunal erred in disbelieving the testimonies of PW-2 (Raghubir Singh) and PW-4 (Sajjan Singh), who were projected as material witnesses to the accident, on the basis of alleged minor contradictions and their interested status, while overlooking the fact that their versions were consistent and stood corroborated by the registration of the FIR, as also by the benevolent object of the Motor Vehicles Act, 1988. It was further argued that the learned Tribunal committed a grave error in drawing adverse inferences from the untraced police report and the non-examination of Satish Kumar, which, according to the appellants, were wholly irrelevant consideration for determining the issue of negligence in a claim petition under Section 166 of the Act. 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 post-mortem report and other relevant documents. On these premises, learned counsel prayed for setting aside the impugned award and for grant of just and adequate compensation to the appellants.

5. On the other hand, learned counsel appearing for the respondents 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. Learned counsel argued that the claimants failed to discharge the foundational burden of proving the involvement of the alleged offending



vehicle, namely Tata 407 bearing registration No. HR-47-A-5091, as well as rash and negligent driving on the part of respondent No.1. On these grounds, learned counsel prayed for dismissal of the appeal.

OBSERVATION 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 claimants 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 appellants challenge rests upon the testimonies of Raghbir Singh (PW-2) and Sajjan Singh (PW-4). PW-2 is the father of the deceased, while PW-4 is projected as an eye-witness. 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 court and ordinarily requires corroboration from independent or contemporaneous evidence. On close scrutiny, this Court finds that the version of a rear-end collision by Tata 407 suffers from inherent improbabilities. Further, Raghbir Singh (PW-2) admitted in cross-examination that he was not an eye-witness, thereby rendering his affidavit (Ex. P-2), insofar as it narrates the manner of the accident, unreliable. Moreover, Sajjan Singh (PW-4) claimed to remember not only the



registration number of the offending vehicle but also the identity of its driver, however, he failed to explain why he did not approach the police immediately after the accident. His assertion that his statement was recorded on the third day remains uncorroborated, as who proved untraced report was not confronted with any such statement nor any record of investigation was called to prove his statement made to police. Further, though the claimants named another alleged eye-witness, namely Rattan Singh, he was not examined, without any explanation.

9. Equally significant is the first version recorded in the FIR (Ex. P-1), which came to be registered about 11 hours after the accident. The FIR does not disclose either the registration number of the offending vehicle or the name of its driver, despite the informant Satish Kumar claiming to be an eye-witness. Satish Kumar was never examined before the learned Tribunal. The police investigation, as proved by HC Daya Nand (RW-1) and admitted by HC Brahm Parkash (PW-1), culminated in the filing of an 'untraced' report (Ex. RW1/A and RW1/B), categorically recording that the identity of the offending vehicle and its driver could not be ascertained. Though proceedings before the learned Tribunal are independent of the outcome of the criminal investigation, the learned Tribunal is not precluded from considering the FIR and the police investigation as relevant material, particularly where the claimants own evidence does not inspire confidence.

10. Further, the procedure relating to the filing of an untraced or cancellation report is also well settled. Such a report is prepared by the Investigating Officer after due investigation, forwarded to the Superintendent of Police for verification, and thereafter placed before the Illaqa Magistrate. The Magistrate, before accepting such a report, issues notice to the complainant and affords an



opportunity to file objections. In the present case, if the claimants had acquired knowledge at any later stage regarding the identity of the offending vehicle and its driver, they were duty-bound to bring such material to the notice of the Magistrate. Despite the availability of such an opportunity in Law, no objections were proved to be filed by the appellants, nor was any material is proved to be placed before the criminal court disclosing the alleged identity of the vehicle or its driver. Had the appellants genuinely been in possession of such crucial information, they ought to have disclosed the same at that stage so that appropriate action could have been taken. Their complete silence at a stage when the untraced report was under consideration, justifiably gives rise to an adverse inference against them.

11. In view of the aforesaid deficiencies, the claimants 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 claimants have failed to discharge this burden, as the foundational facts of the accident remain unproved. The learned Tribunal was, therefore, justified in holding that the burden of proof rested upon the claimants and was not discharged. This conclusion is further reinforced by the surrounding circumstances on record, including the untraced police report and the absence of independent corroboration, which cumulatively give rise to a legitimate doubt regarding the genuineness of the claim.

12. In the case of ***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.

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

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

04.02.2026
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

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