

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****208****FAO-2569-2021 (O&M)****Date of decision: 08.05.2026****Kavita and others****...Appellant(s)****Vs.****Vinod and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Jasdev Singh Thind, Advocate
for the appellants.

Mr. Punit Jain, Advocate for
respondent No.3-Insurance Co.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants laying challenge to the Award dated 04.02.2021 passed by the Motor Accident Claims Tribunal, Hisar (for short "the learned Tribunal"); whereby Claim Petition No. 364 dated 11.07.2018 filed by the claimants/appellants under Section 166 of the Motor Vehicles Act, 1988, has been dismissed. The 4 claimants are the 33-year-old widow; 12-year-old son; 11-year-old daughter; and 77-year-old mother of the deceased Om Parkash, who was 38 years old at the time of accident.

2. It was the pleaded case of the appellants before the learned Tribunal that deceased Om Parkash had died due to the injuries suffered by him in a motor vehicular accident that took place on 10.06.2018 at about 03:00 p.m. due to the rash and negligent driving of a Car bearing registration



No. HR21M/4928 (hereinafter referred to as “the alleged offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. However, the Id. Tribunal on the basis of evidence adduced by the parties concluded that the appellants *“have failed to prove that car bearing Registration No. HR21M/4928 was involved in the accident in question and the accident took place due to rash and negligent driving of car by the respondent No.1. Therefore, this issue is decided against the petitioners.”* Accordingly, issue No.1 was decided against the appellants.

3. Learned counsel for the appellants submits that learned Tribunal was in error in holding as above as the appellants had produced cogent evidence to prove that the deceased had died due to injuries suffered by him in accident dated 10.06.2018 which had taken place due to the rash and negligent driving of the offending car by respondent no.1. However, the Tribunal has discarded the evidence on spurious grounds. The Tribunal has failed to appreciate that appellants have examined PW2 Rahul eyewitness, author of the FIR, who was accompanying the deceased on the motorcycle at the time of accident. Appellants had also examined Anil Kumar/respondent No.2/owner of the offending vehicle, as PW4. Thus, the appellants had succeeded in proving that the accident had occurred due to rash and negligent driving of the offending vehicle by respondent No.1. Therefore, Claim Petition could not have been dismissed only on technical grounds.

4. It is accordingly prayed that the present Appeal be allowed; and impugned Award be set aside.



5. *Per contra*, learned counsel for respondent-Insurance Company opposes submissions made on behalf of the appellants and submits that if there was eyewitness, then why was FIR registered against unknown vehicle and unknown driver. Moreover, in the criminal trial, both the above said witnesses, and even brothers of the deceased, have turned hostile resulting in acquittal of respondent No.1. Learned counsel for the respondent-Insurance Company has handed over a copy of the judgment dated 21.05.2024 passed by learned Judicial Magistrate 1st Class at Hansi, Hisar in Court, which is taken on record. It is accordingly prayed that the present appeal be dismissed.

6. No other argument is raised on behalf of the parties. I have heard Id. counsel and perused the case file in detail. I find merit in the submissions advanced on behalf of respondent No.1.

7. The pleaded case of the appellants before the learned Tribunal as recorded in para 1 of the impugned Award is as follows: -

"1. The facts which led to the filing of present claim petition are that on 10.06.2018 at about 2.30PM, Om Parkash (since deceased) was coming to his village Rampura from Hansi by his motor cycle bearing Registration No. HR21B/1949 and he was being followed by his cousin Rahul on a separate motor cycle bearing Registration No. HR21B/1949. At about 3.00PM, when they reached a bit ahead of bus stand Rampura, a white colour car being driven by its driver in a rash and negligent manner without following traffic rules came from behind and tried to overtake motor cycle of Om Parkash, since deceased. But the car suddenly took a turn and struck with the motor



cycle of Om Parkash, since deceased from behind. Resultantly, Om Parkash fell down on the road alongwith his motor cycle and sustained multiple grievous injuries on his body. When Rahul was looking after him, driver of offending car sped away from the spot in his car and thus, he could not note down registration number of the car. He shifted Om Parkash to Civil Hospital, Hansi with the help of passersby where he was declared dead by Doctor. The matter was reported to the police and a case vide FIR No. 0161 dated 10.06.2018 under sections 279, 304-A, 427 IPC was registered in police station Sadar, Hansi, District Hisar. During investigation, car bearing Registration No. HR21M/4928 was found to be involved in the accident and the respondent No.1 was identified to be driver of the said car.”

8. In respect of the accident in question, on the statement made by Rahul, who was accompanying the deceased at the time of accident; an FIR No.161 dated 10.06.2018 under Sections 279/304-A/427 IPC was registered against unknown vehicle and unknown person at PS Sadar, Hansi. However, Rahul had appeared as PW2 before the learned Tribunal and in his Affidavit Ex.PW2/A Rahul had disclosed number of offending vehicle, but he has not disclosed as to how he came to know about number of offending vehicle. In his Affidavit Ex.PW2/A; Rahul has deposed in support of the averments made in the Claim Petition as noted above.

9. Another suspicious factor is that Anil Kumar/respondent No.2/owner of the offending vehicle who has appeared before the learned Tribunal as PW4, has admitted that the accident has taken place with the



offending vehicle by respondent no.1. In para 9 of the impugned Award, the learned Tribunal has recorded deposition of Anil Kumar, owner of the offending vehicle, as follows: -

“Besides that, respondent No.2 Anil Kumar owner of car has stepped into witness box as PW4 and has deposed that he is owner of KWID bearing registration No. HR21M/4928 of white colour. On 10.06.2018, his friend Vinod Kumar (respondent No.1) has taken said car for visit in his relations. Later on Vinod told him that on 10.06.2018. when he was going from Hansi towards Mundhal in the said car, while overtaking a motor cycle, the said car struck into a motor cycle from behind near bus-stand of village Rampura. He further told that motor cyclist fell down on the road and died. On the date of accident, the vehicle was being driven by Vinod Kumar (respondent No.1).”

10. The fact that the owner of the offending vehicle/respondent No.2 had himself appeared in witness box as PW4 and supported the case of the claimants is sufficient to prove collusion between the claimants and the respondents. It is also noteworthy that in contradiction thereof, in the joint written statement dated 28.09.2018 filed by respondents No.1 and 2, it had been pleaded that neither the alleged accident had taken place nor was the alleged offending vehicle involved in the accident. Thus on 10.06.2018, when respondent No.2 was aware of the fact that accident has been caused by respondent No.1 why did he did not mention the factum of the accident in his written statement dated 28.09.2018. The aforesaid conduct clearly shows that the respondents no.1 and 2 have been subsequently involved in the matter in collusion between the claimants and the said respondents.



11. It has also been alleged by the claimants that one Subhash has also witnessed the accident. However, the said Subhash has not been produced as witness. In view of the above facts, it remains a mystery as to how offending vehicle and respondents No.1 and 2 were introduced by the claimants in the picture.

12. The collusion among the claimant and the respondents no.1 and 2 is established from the fact that respondent no.1/Driver of the offending vehicle has been acquitted by learned Judicial Magistrate 1st Class, at Hansi, Hisar in FIR No.161 dated 10.06.2018 vide judgment dated 21.05.2024. This is because the aforesaid witnesses Rahul/complainant/eyewitness who had appeared as PW2 before the MACT and supported the claim of the appellants, had appeared in the criminal trial as PW1 and has taken a totally contradictory stance as recorded by learned JMJC in para 6(i) of the judgment of acquittal dated 21.05.2024, which reads as under: -

“6... (i) PW1-Rahul son of Surajbhan resident of Garhi (complainant/ eyewitness)- has deposed that on dated 10.06.2018, he alongwith his cousin (Bua's son) were going to Rampura on their own motorcycles. At about 03:00 p.m. when they reached at Rampura bus stand, then one car driver came at high speed from behind and hit direct to motorcycle. He stopped his motorcycle and saw Om Parkash. Car driver ran away from the spot alongwith his car. He took Om Parkash in GH Hansi with the help of persons present at the spot where the doctor declared Om Parkash dead. Police recorded his statement Ex. PW1/A which bears his signatures. But in the cross-examination, he took a U-turn and even failed to identify the accused present in the Court. He deposed that he cannot tell the number of



offending vehicle because the offending vehicle was being driven at a high speed. He even cannot tell the colour of the offending vehicle. He does not identify the accused present in the Court. He further stated that he does not know the time when the accident took place. He denied the suggestion of false deposition."

13. Even Anil Kumar/respondent No.2, who had appeared as PW4 before the Tribunal and had deposed regarding involvement of the offending vehicle, had appeared before Id. JMIC as PW5 and in his cross-examination, has denied the accident or involvement of respondent no.1 as follows:-

"(v). PW5 Anil son of Badan Singh- has deposed that on dated 10.02.2018, his vehicle bearing regd. no. HR21M-4928 was taken by Vinod son of Deep Chand on demand. After 2-3 days, Vinod told him that he caused an accident of one motorcycle driver near Rampur while going from Hansi to Mundhal and due to injuries sustained in the accident that person died. His vehicle was being driven by Vinod at the time of accident. He identified the accused Vinod present in the Court. In his cross-examination, he stated that accident did not take place before him. He does not remember the time of accident told by accused Vinod. He even does not know in which direction accident took place. He even does not know the speed of the offending vehicle at the time of accident. He denied the suggestion of false deposition."

14. It may also be noted that Balwan son of Ram Kumar, brother of deceased Om Parkash, had appeared before the learned JMIC as PW2 and has also turned hostile. Another brother of Om Parkash, namely, Bali Ram



son of Ram Kumar, has appeared as PW4 and has also turned hostile. Consequentially, respondent No.1 came to be acquitted by learned JMIC.

15. A bare reading of the above facts shows that before the learned JMIC, the claimant side has turned turtle on its statement made before the Tribunal. No doubt, proceedings under the Act have to be decided on the preponderance of probabilities. However, this Court cannot shut its eyes in an ostrich like manner to the starkly diametrically opposite stance taken by the claimant side in the criminal trial. Clearly, no credence can be attributed to the contrary statements made by the claimant side before the Tribunal. From the above noted facts, it is clear that claimant side has deposed falsely before the Tribunal only with a view to get the compensation. It is my view that the said act of the claimant side amounts to perjury.

16. I am supported in my view by most recent judgment of Hon'ble Supreme Court in **Rajamma v. M/s Reliance General Insurance Co. Ltd., (SC) : Law Finder Doc Id # 2784588** decided on 26.09.2025; wherein while upholding that *".....proof of accident in motor accident claims is based on the preponderance of probabilities"*, it has simultaneously been held that *"..... Suspicion on FIR registration and contradictions in witness testimony can lead to dismissal of claims. Testimony of eyewitness deemed unreliable due to contradictions and lack of supporting evidence. FIR and witness statements must be consistent and credible to establish the involvement of the offending vehicle and the negligence of the driver."* Thus,

the Hon'ble Supreme Court has categorically enunciated that in case of



contradiction in witness testimony, claim petition is liable to be dismissed. In the present case, as noted above, there is distinct contradiction in the case set up by the appellants before the Tribunal, and as projected by them before the learned JMIC.

17. This Court in **“Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others”** FAO-2231-2014 decided on 03.12.2019, held that:-

*“(6) This Court cannot loose sight of the judgment rendered by this Court in the case of **United India Insurance Company Limited versus Kamla Devi and others 2010(53) RCR (Civil) 651**, wherein it was specifically held that in case an eye witness gives totally different version before the Court conducting trial in criminal case from the statement made by the said eye witness before the Tribunal, the testimony of such a witness is unworthy of being accepted and the evidence should be simply rejected. In fact, the learned Single Bench came down heavily on such witness and held that the said witness is also liable for perjury.”*

18. This Court in abovesaid judgment in **“United India Insurance Company Limited Vs. Kamla Devi & Others” (P&H) : Law Finder Doc Id # 251230** has held that:

"5. It should still have been possible for the Tribunal to take a decision uninfluenced by any decision that may have come before the criminal court. The several decisions which have come about on this issue are to the effect that a judgment in a criminal court is not binding on the Tribunal; the non-filing of a FIR is not material; even the fact of involvement of the vehicle as found by the criminal court is not binding. While the Tribunal is competent to



assess the evidence which is brought before it and take an independent decision, then the point that has to be seen is whether there was any evidence worth its name before the Tribunal to come a finding that the particular vehicle was involved in the accident. It can be either that the version of Sitar Mohd. cannot be relied for he has contradicted himself wholesale with the version given before the criminal court or looked for other evidence which was placed before the Court. Alternatively if any explanation had been given by the witness as to why he deposed falsehood before the criminal court, even such an explanation could have been accepted to enter a finding that the accident took place only involving the particular insured's vehicle. In this case, no explanation has been given by the witness as to why he stated before the criminal court that he did not know which vehicle was involved in the accident. He would, on the other hand, defy that he ever made any such statement before the criminal court, necessitating the statement made before the criminal court to be exhibited for contradiction before the Tribunal. It must be remembered a statement in criminal court case by a witness is also on oath. If he was uttering falsehood, he was liable for perjury. If there was contradiction between the version elicited before the Tribunal to the statement made before the criminal court then such a witness will be unworthy of acceptance. The Tribunal could have simply rejected the whole evidence. If it was going to pick out one line from chief examination to say that the insured's vehicle was involved in the accident, the Tribunal was doing something which is not a judicial function but a travesty of justice."

19. In view of the above discussion, the present Appeal stands **dismissed.**



20. Pending application(s) if any also stand(s) disposed of.

08.05.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No