

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-3889-2008 (O&M)

NEW INDIA ASSURANCE CO. LTD.

..Appellant

Versus

DHARAMBIR SHARMA AND ORS.

..Respondents

Reserved on: 19.12.2025

Date of decision: 31.01.2026

Uploaded on : 04.02.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

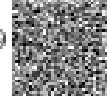
Present: Mr. V. Ramswaroop, Advocate
for the appellant.

SUDEEPTI SHARMA, J.

1. The present appeal has been filed by the appellant-Insurance company against the award dated 24.07.2008 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Jhajjar (for short, 'the Tribunal'), wherein the claim petition filed by the claimants was allowed and appellant-Insurance company was made liable to pay at first instance.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 30.4.2006, the petitioners were going from Bahadurgarh to village Chappar to do some religious purposes in a Maruti Zen Car bearing registration No.DL-1CE-2040. When, they reached near a petrol pump near village Subana on Jhajjar-Kosli road, a

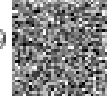


truck bearing registration No.HR-55A-9361 (hereinafter referred to as offending vehicle) came from the opposite side, which was being driven by Rajesh Kumar, respondent No.1 in a very rash and negligent manner and with high speed. Consequently, it hit into the car, in which, petitioners were travelling. The occupant of the car got multiple injuries. They were brought to Civil Hospital, Jhajjar and from there, they were referred to PGIMS, Rohtak and from Rohtak, they were taken to Sri Balaji Action Medical Institute, Paschim Vihar, New Delhi. As per petitioners, the accident in question took place because of such rash and negligent driving of the offending vehicle, by its driver. In this accident, petitioners namely Smt. Rajbala wife of Ramesh Kumar and Ms. Suman Sharma daughter of Dharambir Sharma sustained injuries on their persons whereas Smt. Bimla Sharma wife of Dharambir Sharma and Vijay Kumar @ Vijay Sharma son of Dharambir Sharma died.

3. Upon notice of the claim petition, respondents appeared and contested the claim petition by filing their separate written replies denying the factum of accident/compensation.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

“1. Whether Smt. Rajbala and Ms. Suman Sharma had sustained injuries whereas Smt. Bimla wife of Dharambir and Vijay Kumar @ Vijay Sharma son of Dharambir Sharma had died in a road side accident took place on 30.04.2006, within the jurisdiction of Police Station, Salhawas due to rash and negligent driving of the offending vehicle i.e. the truck bearing registration No.HR- 55A-9361, being driven by its driver Rajesh Kumar, respondent No.1? OPP



2. If so, petitioners Smt. Rajbala and Miss Suman Sharma and the legal heirs of deceased Smt. Bimla wife of Dharambir and Vijay Kumar @ Vijay Sharma son of Dharambir Sharma are entitled for compensation? If so, to amount and from whom?

OPP

3. Whether respondent No.1 was not holding a valid and effective driving licence at the time of accident. If so, to effect?

OPR-3

4. Relief”

5. Thereafter, both the parties led their evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT:

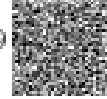
7. Learned counsel for the appellant–Insurance Company contends that the learned Tribunal has erred in holding that accident occurred due to sole negligence of the driver of offending vehicle. He furthermore, contends that infact the accident was a result of contributory negligence of both the drivers. Therefore, he prays that the present appeal be allowed.

8. I have heard learned counsel for the appellant and perused the whole case file with his able assistance.

9. The relevant portion of the award is reproduced as under:-

“Issue No.1

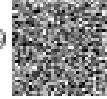
14. In their evidence, confining to this issue, petitioner Ms. Suman Sharma, while stepping into witness box as PW3, through her affidavit Ex.PW3/A, testified that on 30.04.2006, she was going in a Maruti Zen Car bearing registration No.DL-ICE-2040 with others from



Bahadurgarh to village Chappar for performing some religious duties and when they reached near petrol pump near village Subana on Jhajjar-Kosli road, a truck bearing registration No.HR-55A-9361 came from the opposite side. It was being driven by its driver namely Rajesh Kumar, respondent No. 1, in a very rash and negligent manner and with high speed and because of which, it hit into the Maruti car, causing multiple grievous injuries to all the occupants of the car. She also pleaded that the accident in question took place only because of rash and negligent driving of the truck, by respondent No.1 and for the same, an FIR bearing No.28/2006, under Sections 279, 337, 338 and 304-A, IPC was lodged against him. She refuted a suggestion that the accident in question had not taken place due to the rash and negligent driving of the truck or it took place due to the sole negligence of the car driver. She also refuted a suggestion that the car driver while driving his car was attending a call on his Mobile Phone.

15. The next injured/petitioner is Smt. Rajbala and who also deposed on the lines of depositions made by petitioner Ms. Suman Sharma (PW3), while stepping into witness box as PW4 Besides, petitioners also brought a copy of FIR Ex.P47 on record and which shows that a case for an offence punishable under Sections 279/337/338 and 304A, IPC was lodged against Rajesh Kumar, the driver of the offending vehicle bearing registration No.HR-55A-9361. Thus, as per police, he was sole responsible for causing the accident.

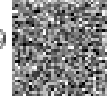
16. This evidence of the petitioners goes un rebutted and unchallenged. In such situation, there is also nothing on record to disbelieve the same. The cause of investigation was got investigated by the police. If found the driver of



the truck as rash and negligent, causing the accident in question.

*17. The learned counsel for the insurance company contended that it was a contributory negligence on the part of both the drivers of the vehicles and since the driver of the Maruti Zen Car was not made a party, hence, the petitions are bad on account of non-joinder of parties. But, after hearing learned counsel for the parties, I am of the view that this contention of the learned counsel for the insurance company is not tenable because, the driver of the offending vehicle while appearing in the witness box as RW2 did not say anything with regard to the contributory negligence of drivers of both the vehicles. Moreover, it is a settled principle of law that if a case has been registered against a person by the police after investigation, then it is a prima facie proof that he was driving his vehicle in a rash and negligent manner. Reference in this regard may be had to the law laid down in a case reported as **Girdhari Lal Versus Radhey Shyam and Ors., 1993(2) PLR 109**. Hence, it is held that the accident in question, causing the death of Smt. Bimla and Vijay Kumar @ Vijay Sharma and injuries to Smt. Rajbala and Ms. Suman Sharma was caused by respondent No.1, by driving his truck No.HR-55A-93961, rashly and negligently. This issue is, accordingly, decided in favour of the petitioners and against the respondent No.1.”*

10. A perusal of the record reveals that petitioner Ms. Suman Sharma, while appearing as PW-3, categorically deposed that the accident occurred when the offending truck, driven at a high speed and in a rash and negligent manner, came from the opposite direction and struck the Maruti Zen car in which she was travelling. Her testimony remained consistent and



unshaken during cross-examination. The testimony of Smt. Rajbala (PW-4) fully corroborates the deposition of PW-3. Both witnesses were injured in the accident and their presence at the spot is undisputed.

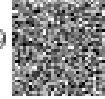
11. The FIR No.28/2006 registered under Sections 279, 337, 338 and 304-A IPC against respondent No.1, after investigation, further substantiates the version of the claimants. No contrary police record or material was produced by the appellant to discredit the same.

12. Significantly, the driver of the offending truck, while appearing as RW-2, did not attribute any negligence to the driver of the Maruti Zen car. No positive evidence was led by the appellant to establish contributory negligence.

13. The plea of contributory negligence raised by the appellant is entirely bald and unsupported by evidence. It is well settled that contributory negligence must be specifically pleaded and affirmatively proved. Mere suggestion in cross-examination or a hypothetical argument is insufficient to displace a finding based on consistent eyewitness testimony and documentary evidence.

14. The learned Tribunal has rightly relied upon the principle that where, after due investigation, the police files a case against a particular driver, the same constitutes prima facie evidence of rash and negligent driving. The reliance placed upon *Girdhari Lal v. Radhey Shyam & Ors., 1993 (2) PLR 109* is fully justified and applicable to the facts of the present case.

15. This Court finds no perversity, illegality or misreading of evidence in the finding returned by the learned Tribunal that the accident in



question occurred due to the rash and negligent driving of the offending truck bearing registration No. HR-55-A-93961 by respondent No.1.

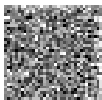
16. The finding on Issue No.1 is based on cogent, reliable, and un rebutted evidence and does not call for interference in appellate jurisdiction.

17. So far as the contention of learned counsel for the appellant—Insurance Company that the compensation awarded by the learned Tribunal is on the higher side is concerned, the same is bereft of any merit.

18. The record clearly demonstrates that the learned Tribunal has rightly assessed the monthly income of the deceased at ₹10,000/-, on the basis of cogent and unimpeached documentary evidence, namely the pay slip (Ex.P1), salary certificate (Ex.P2), employment certificate (Ex.P3), offer and appointment letters (Ex.P4 and Ex.P5), duly proved through PW-1 Raj Kumar Verma, Accountant of SAS e-Com Limited. The employer being a registered company, paying income tax, further lends credibility to the said documents. No rebuttal evidence was led by the appellant to discredit either the testimony of PW-1 or the documents placed on record.

19. The age of the deceased stands conclusively established as 25 years from the Post-Mortem Report (Ex.P50). In view of the settled law laid down by the *Sarla Verma's case (supra)* and reiterated in *Pranay Sethi's case (supra)*, the application of a multiplier of 18 by the learned Tribunal is fully justified and in consonance with law.

20. This Court, therefore, finds no perversity, illegality, or misapplication of law in the assessment of compensation made by the learned Tribunal. The award represents just and reasonable compensation and does not warrant interference in appellate jurisdiction.



21. Consequently, the present appeal, being devoid of any merit, is dismissed.
22. Further it is hereby directed that the statutory amount of Rs.25,000/- deposited by the appellant at the time of filing of appeal in the Registry of this Court be returned to him.
23. Pending miscellaneous applications, if any, are also disposed of.

January 31st, 2026
Ayub

(SUDEEPTI SHARMA)
JUDGE

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