



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

FAO-1577-2009 (O&M)

Decided on : 04.02.2026

Smt. Sunita

....Appellant

Versus

Sant Lal & ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Jayant Yadav, Advocate for
Mr. P.R.Yadav, Advocate
for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No.3.

PANKAJ JAIN, J. (ORAL)

1 Challenge is to the award dated 26.11.2008 passed by Motor Accident Claims Tribunal, Gurgaon, whereby the claim petition filed by the injured-victim under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the 1988 Act') seeking compensation on account of the injuries suffered by her in a motor vehicular accident dated 20.01.2005, stands rejected.

2 The Tribunal dismissed the claim petition returning finding on issue No.1 against the claimant observing as under :-

"13. However, I do not find any force in the contention raised by the learned counsel for the claimant. The accident took place on 20.01.05 and as per the version of the petitioner, her husband and villagers had arrived at the spot and she was shifted to the hospital for treatment. The FIR has been registered on the next day at the instance of the petitioner but neither the registration number of the offending three



wheeler nor the name of its driver have been mentioned in the FIR. In case, three wheeler had turned turtle at the spot it must have also suffered some damage and driver must have been at the spot and the villagers must have noted his name and address as well as registration, number of the three wheeler and this fact would certainly have been mentioned in the FIR. During her cross-examination, PW4 deposed that she had told the registration number of the three wheeler to the police. She also deposed that the registration number of the three wheeler was disclosed to her by her husband in the hospital. However, the registration number has not been mentioned in the FIR and in case, registration number of the offending vehicle was in the knowledge of petitioner and her husband, there was no reason to withhold the same while lodging the FIR.

14. Husband of the petitioner had disclosed the registration number of the three wheeler to her which was not in her knowledge but petitioner has not examined either her husband or any other villager to prove that three wheeler bearing no. HR-558-0584 was the offending vehicle. Best evidence in the possession of the petitioner has been withheld for the reasons best known to her and on this account, an adverse inference has to be drawn against the petitioner that had this evidence been led, it would not have supported her version. All these circumstances amply prove that vehicle bearing no HR 558-0584 was not involved in the accident and has been subsequently introduced.

15. Merely because respondent no.1 has been prosecuted in the criminal case is no ground to hold that the occurrence took place on account of accident with vehicle bearing No. HR-558-0584. in 2001(3) RCR 582, Ram Karan Vs Zile Singh it has been held that registration of FIR, framing charge and even judgment of conviction or acquittal of criminal Court is not binding on the Tribunal and the onus of proving negligence is always upon the claimants and they have to discharge it. As to whether petitioner suffered injuries on account of rash and negligent driving by respondent no.1 or not has



to be decided on the basis of evidence led before this Tribunal but the evidence led by the petitioner is not cogent and convincing and same does not inspire confidence. Rather, from the evidence led on file, the involvement of offending vehicle is not proved. This issue is accordingly decided against the petitioner.”

3 There is no denial to the fact that in the initial version with respect to the accident the details of the offending vehicle do not find place. However, it has come on record that after investigation, the police filed a report under Section 173 CrPC and on the basis thereof, respondent No.1 faced trial. Trite it is that in the claim petitions filed under the 1988 Act, the standard of proof is not beyond reasonable doubt, but preponderance of probability.

4 Law regarding standard of proof in the claim petition arising under Motor Vehicles Act is well settled and has been elaborately discussed by the Supreme Court in ***Dulcina Fernandes v. Joaquim Xavier Cruz*** reported as (2013) 10 SCC 646. Reiterating the ratio of law laid down by Supreme Court in the case of ***Dulcina Fernandes ibid***, Supreme Court in ***ICICI Lombard General Insurance Company Limited v. Rajani Sahoo*** reported as (2025) 2 SCC 599 observed as under : -

“xx xx xx

7. The core contention of the appellant is that the Tribunal as also the High Court relied on the fraudulent chargesheet prepared by the respondents in connivance with the police. In short, the contention of the appellant is that the High Court erred in relying on the chargesheet to arrive at the conclusion that the accident in question in which Udayanath Sahoo lost his life had occurred due to the rash and negligent driving of the truck insured with the appellant. Though respondent Nos.1



and 2 did not file any counter affidavit, the learned counsel appearing for them would submit that there is absolutely no illegality in relying on such documents consisting of FIR and the final report prepared in relation to the accident in question by the police, for the purpose of considering the question of negligence in a motor vehicle accident case. That apart, it is contended that the appellant despite attributing connivance of the respondents with the police, the appellant failed to prove the same. In short, it is submitted that the appeal is devoid of merit and the same is liable to be dismissed.

8. As regards the reliability of charge sheet and other documents collected by the police during the investigation in motor accident cases, this Court in the case of Mangla Ram v. Oriental Insurance Co. Ltd. [Mangla Ram v. Oriental Insurance Co. Ltd., (2018) 5 SCC 656 : (2018) 3 SCC (Civ) 335 : (2018) 2 SCC (Cri) 819 : 2018 INSC 311], held in para No.27, thus : (SCC p.672)

“27. Another reason which weighed with the High Court to interfere in the first appeal filed by Respondents 2 & 3, was absence of finding by the Tribunal about the factum of negligence of the driver of the subject jeep. Factually, this view is untenable. Our understanding of the analysis done by the Tribunal is to hold that Jeep No. RST 4701 was driven rashly and negligently by Respondent 2 when it collided with the motorcycle of the appellant leading to the accident. This can be discerned from the evidence of witnesses and the contents of the charge-sheet filed by the police, naming Respondent 2. This Court in a recent decision in Dulcina Fernandes [Dulcina Fernandes v. Joaquim Xavier Cruz, (2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13], noted that the key of negligence on the part of the driver of the offending vehicle as set up by the claimants was required to be decided by



the Tribunal on the touchstone of preponderance of probability and certainly not by standard of proof beyond reasonable doubt. Suffice it to observe that the exposition in the judgments already adverted to by us, filing of charge-sheet against Respondent 2 prima facie points towards his complicity in driving the vehicle negligently and rashly. Further, even when the accused were to be acquitted in the criminal case, this Court opined that the same may be of no effect on the assessment of the liability required in respect of motor accident cases by the Tribunal”. (Emphasis Supplied)

9. *It is true that the Tribunal had looked into the oral and documentary evidence including the FIR, final report and such other documents prepared by the police in connection with the accident in question. The Tribunal had also taken note of the fact that based on the final report, the driver of the offending truck was tried and found guilty for rash and negligent driving. The High Court took note of such aspects and found no illegality in the procedure adopted by the Tribunal and consequently dismissed the appeal.*
10. *In the contextual situation it is relevant to refer to a decision of this Court in Mathew Alexander v. Mohd. Shafi [Mathew Alexander v. Mohd. Shafi, (2023) 13 SCC 510 : 2023 INSC 621], this Court held thus : (SCC p. 514, para 12)*

“12....A holistic view of the evidence has to be taken into consideration by the Tribunal and strict proof of an accident caused by a particular vehicle in a particular manner need not be established by the claimants. The claimants have to establish their case on the touchstone of preponderance of probabilities. The standard of proof beyond reasonable



doubt cannot be applied while considering the petition seeking compensation on account of death or injury in a road traffic accident. To the same effect is the observation made by this Court in Dulcina Fernandes v. Joaquim Xavier Cruz [Dulcina Fernandes v. Joaquim Xavier Cruz (2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13] which has referred to the aforesaid judgment in Bimla Devi [Bimla Devi v. Himachal RTC, (2009) 13 SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101].”

11. *Thus, there can be no dispute with respect to the position that the question regarding negligence which is essential for passing an award in a motor vehicle accident claim should be considered based on the evidence available before the Tribunal. If the police records are available before the Tribunal, taking note of the purpose of the Act it cannot be said that looking into such documents for the aforesaid purpose is impermissible or inadmissible.*
12. *It is also a fact that the appellant had attributed that the respondent claimants connived with police and fraudulently prepared the chargesheet. The contention is that the vehicle insured with the appellant was not involved in the accident and the accident had occurred solely due to the rash and negligence on the part of the deceased. But the evidence on record would reveal that pursuant to the filing of the final report, cognizance was taken for rash and negligent driving which resulted in the death of Udayanath Sahoo.”*

5 In view of the fact that the Investigating Agency filed a report under Section 173 CrPC against driver of the offending vehicle and the fact that the charges were framed which led to trial against respondent No.1, this

Court finds that the finding recorded by the Tribunal, in view of the ratio of law laid down by Supreme Court in *Rajani Sahoo’s case (supra)*, cannot be sustained and deserves to be reversed.

6 With the aforesaid observation, the impugned award passed by Motor Accident Claims Tribunal, Gurgaon is hereby set aside. Matter is remanded back for fresh adjudication on issue Nos.2, 3 and 4.

7 Parties are directed to appear before the Tribunal on 09.03.2026.

8 Appeal stands disposed off.

04.02.2026
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

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