



FAO-5301-2010 (O&M)

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

FAO-5301-2010 (O&M)

Oriental Insurance Co. Ltd.

.....Appellant

vs.

Kashmir Kaur and others

.....Respondents

Date of Reserve: 20.02.2026**Date of Pronouncement:- 24.03.2026****Date of Uploading:-27.03.2026**

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. D.P. Gupta, Advocate, (Through VC)
for the appellant.

Mr. Charanjit Sharma, Advocate
for respondent Nos. 1 to 4.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Insurance Company against the award dated 03.06.2010 filed under Section 166/140 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Ferozepur (for short, 'the Tribunal') on the ground that the liability to pay compensation to the tune of Rs. 6,32,000/- has been wrongly fixed upon the appellant-Insurance Company as well as quantum of compensation being on higher side.

FACTS NOT IN DISPUTE

2. Brief facts of the case are that on 11.2.2007, the deceased was coming back to his are that on village Mamdot Uttar alongwith one Jasveer Singh on



Singh resident of village Sawai Wala was also coming behind them. The motorcycle was being driven by deceased and Jasveer Singh was sitting on pillion seat. When they reached G.T.Road T-Point, then Malook Singh gave indication and turned his motorcycle towards Mamdot. In the meantime, a Qualis jeep bearing number PB-05-J-1326, being driven by Chhinda resident of village Kanian Wala, in a rash and negligent manner at a high speed on the wrong side and without blowing came from opposite side, struck against the motorcycle of deceased Malook Singh due to which Malook Singh and Jasveer Singh received multifarious injuries. Angrej Singh arranged for the vehicle and took them to Mission Hospital, Ferozepur, from where they were referred to Amritsar where Malook Singh died on 12.2.2007 in Amandeep Singh Hospital, Amritsar. A case FIR No.245 dated 21.8.2005 was registered in Police Station City Abohar.

3. Upon notice of the claim petition, respondents appeared and admitted the factum of compensation.

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

“1. Whether deceased Malook Singh died in road accident by respondent No.1 while driving jeep Qualis bearing no. PB-05-J-1326 in rash and negligent manner in the area of village Waryam Singh Wala on 11.2.2007, as alleged? OPA.

2.If Issue No.1 is proved whether the claimant-deceased are legal heirs of the are entitled to and they compensation, if so from whom and to what extent? OPA.

3. Whether the claim petition is maintainable? OPR.

4. Whether the driver of the offending vehicle was holding a valid licence, as alleged? OPR-5.



5. Whether the claim petition is false frivolous and vexatious to the knowledge of the claimants? OPR-5.

6. Whether the claimants are estopped from filing the claim application by way of their act and conduct? OPR-5.

7. Relief.”

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants/respondent Nos. 1 to 4. However, the appellant-Insurance Company was held liable to pay the compensation. Hence, the present appeal.

SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES.

6. Learned counsel appearing on behalf of the appellant–insurance company has assailed the findings of the learned Tribunal on the issue of negligence, contending that the conclusion attributing sole negligence to respondent No. 8, the driver of the offending vehicle, is erroneous and contrary to the evidence on record. He further submits that the material placed before the learned Tribunal clearly establishes that the jeep was proceeding along the main road, whereas the deceased entered the said road from a side road at a T-junction. In such circumstances, he submits that the deceased was under a statutory obligation, in terms of Rule 8 of the Rules of the Road Regulations, 1989, to ensure that entry onto the main road could be made without endangering other road users. The deceased, by failing to observe the said precaution, is stated to have contributed to the occurrence of the accident. Consequently, he argued that the case is not one of exclusive negligence on the part of the driver of the offending vehicle, but rather one involving contributory negligence on the part of the deceased. On these premises, learned counsel prays that the present appeal be allowed and the



7. Per contra, learned counsel appearing for respondent Nos. 1 to 4—claimants has supported the findings returned by the learned Tribunal. He contends that the learned Tribunal, upon proper appreciation of the oral and documentary evidence, rightly held the driver of the offending vehicle solely negligent, and that no interference with the said finding is warranted in the present appeal. He, therefore, prays that the appeal, being devoid of merit, deserves to be dismissed.

8. I have heard learned counsel for the parties and perused the whole records of the case.

9. Before proceeding further, it is apposite to reproduce the relevant portion of the award, which reads as under:-

“ISSUE NO.1.

9. Sh S.S.Sidhu, learned counsel for the claimants has argued that PW2 Angrej Singh is the eye witness of this accident, who proved it on record that accident in question had been occurred by respondent No.4, while driving Qualis bearing no. PB-05-J-1326 in rash and negligent manner, which caused the death of for Malook Singh. The learned counsel also referred to the contents of the FIR [EX.PA](#) and copy of the post mortem, Whereas on the other hand Sh.Satinder Singh, learned counsel respondents No.1 to 4 and Sh.M.L.Chugh, learned counsel for respondent No.5 have argued that PW2 Angrej Singh is made up witness and no reliance can be placed upon his testimony. It has been argued on behalf of respondents that PW2 Angrej Singh was earlier not known to driver of the offending vehicle, who was not apprehended at the spot, therefore, the statement of this witness is not sufficient to driving hold that the respondent No.4 was offending Jeep Qualis at the relevant time and he caused this accident.

10. I have given my thoughtful consideration to rival contentions of counsels for the parties.



11. In order to prove accident in question, the claimants have examined PW2 Angrej Singh, who tendered into evidence his affidavit Ex.PW2/A. By way of his affidavit, PW2 Angrej Singh has stated that he knew deceased Malook Singh who died in this accident. He further stated that on 1.2.2007 Malook Singh deceased was coming back to his village Mamdot Uttar along with one Jasveer Singh on motorcycle Bajaj bearing No.PB-38-A-0715 and he coming behind them. The Was motorcycle was being driven by deceased Malook Singh and Jasveer Singh was sitting on pillion seat. When they reached on G.T.Road, T-Point, then Malook Singh jave indication and turned his vehicle towards Mindot then Qualis Jeep no. PB-05-J-1326 came from opposite side which was being driven by respondent no.4 Chhinda in a rash and negligent manner and at a high speed without blowing horn. The Qualis Jeep struck against motorcycle of deceased Malook Singh, due to which Malook Singh and Jasveer Singh received injuries. He further stated that he to the arranged for the vehicle and took them to Mission Rospital, Ferozepur but due injuries they were referred to Amritsar where Malook Singh died on 12.2.2007 in Amandeep Hospital Amritsar. Claimants further brought on record the copy of FIR no. 21, Ex.PA, which was got registered on the statement of PW2-Angrej Singh. The claimants also brought on record the copy deceased is Ex.PB. of of postmortem report In order to rebut this evidence respondent No.4 Chinda Singh Surinder Singh stepped into the witness box as RW1 (wrongly numbered as RW4) and tendered into evidence is affidavit Ex.RW4/A, wherein he has stated that no accident has taken place with the vehicle in question and false FIR has been got registered by the claimants. Thus the case of respondent no. 4 is of mere denial. However, he has not pleaded or proved the reason of his false implication in this case. No enmity of PW2 Angrej Singh or claimants with respondent no.4 is either pleaded or proved on record. Further the statement of PW2 Angrej Singh is corroborated by duly contained in the FIR Ex.PA, the averments same which the regarding manner of accident as has been stated by PW2 Angrej Singh in his testimony before the Court. The said FIR was got registered against respondent no.4 Further from the perusal of post-mortem report Ex.PB of deceased Malook Singh it is proved on record that Malook Singh



died due to accidental injuries sustained by him. PW2 was cross examined by the learned counsel for the respondents, but nothing has come on record to doubt his veracity. From the testimony of PW2 Angrej Singh, it has been proved on record that respondent No.4 caused the accident in question while driving Qualis bearing no. PB-05-J-1326 in rash and negligent manner. Thus this issue is decided in favour of claimants and against the respondents.”

10. I have thoughtfully considered the rival submissions advanced by the parties and have minutely examined the reasoning adopted by the learned Tribunal in the impugned award on the issue of rash and negligent driving.

11. At the outset, it is evident that the finding of the learned Tribunal is primarily founded upon the testimony of PW2 Angrej Singh, who has been examined as an eye-witness to the occurrence. A careful reading of his deposition shows that he has furnished a clear, consistent and natural account of the manner in which the accident occurred. He has specifically attributed rashness and negligence to respondent No. 4, who, while driving the offending Qualis vehicle at a high speed and without due caution, struck against the motorcycle of the deceased at the T-junction.

12. The principal contention of the appellant–insurance company that the deceased violated Rule 8 of the Rules of the Road Regulations, 1989, by entering the main road from a side road, and thus contributed to the accident, is not borne out from the evidence on record. The plea of contributory negligence, being a question of fact, was required to be substantiated by cogent evidence, which is conspicuously lacking in the present case.

13. In the absence of any reliable evidence indicating negligence on the part of the deceased, mere reference to Rule 8 cannot *ipso facto* lead to a finding of



contributory negligence. The bald denial by respondent No. 4, without any explanation of false implication, has rightly been discarded.

14. The evidentiary value of the testimony of PW2 cannot be undermined merely on the bald assertion that he is a “planted” or “made-up” witness. It is a settled principle that the testimony of an eye-witness, if found to be credible and trustworthy, is sufficient to sustain a finding of negligence. In the present case, nothing material has emerged in the cross-examination of PW2 so as to discredit his version or to render his presence at the spot doubtful. His testimony has withstood the test of cross-examination and inspires confidence.

15. Further, his version finds substantial corroboration from the contemporaneous record, namely the FIR (Ex. PA), which was promptly registered on the basis of his statement and contains a consistent narration of the occurrence. The post-mortem report (Ex. PB) also lends assurance to the prosecution case by establishing that the death of the deceased was a direct consequence of the injuries sustained in the accident.

16. In contrast, the defence set up by respondent No. 4 is one of mere denial. Though he stepped into the witness box, he has failed to offer any plausible explanation as to why he would be falsely implicated in the present case. No evidence of prior enmity or ulterior motive on the part of the claimants or the eye-witness has been either pleaded or proved. Such a bald and unsubstantiated denial, in the absence of any supporting material, cannot dislodge the otherwise cogent and reliable evidence led by the claimants.

17. It is also well settled that proceedings before the Motor Accident Claims Tribunal are summary in nature and the standard of proof is that of preponderance of probabilities and not proof beyond reasonable doubt. Tested on



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this touchstone, the evidence led by the claimants clearly tilts the balance in their favour.

18. In view of the aforesaid, this Court finds that the learned Tribunal has appreciated the evidence in its correct perspective and has recorded a well-reasoned and legally sustainable finding holding respondent No. 4 guilty of driving the offending vehicle in a rash and negligent manner. The said finding does not suffer from any perversity, illegality or misreading of evidence so as to warrant interference in appellate jurisdiction.

19. Accordingly, the finding of the learned Tribunal on the issue of rash and negligence is upheld.

20. In view of the above, the present appeal stands **dismissed**.

21. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

24.03.2026

Gaurav Arora

Whether speaking/non-speaking : Speaking

Whether reportable : Yes