



FAO-6492-2010 (O&M)

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

FAO-6492-2010 (O&M)

SHEELA DEVI AND ANR.

.....Appellants

Vs.

RAM PAL AND ORS.

.....Respondents

Reserved on: 27.02.2026

Pronounced on: 24.03.2026

Uploaded on:- 06.04.2026

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. Ajay Chauhan, Advocate for
 Mr. Diwan S. Adalakha, Advocate
 for the appellants.

None for the respondent No.1 and 2.

Mr. Ashwani Talwar, Senior Advocate with
 Mr. Nikhil Sehrawat, Advocate
 for the respondent No.3-Insurance Company.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 15.05.2010 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Jagadhri (for short, 'the Tribunal'), vide which the claim petition filed by the appellants/claimants was dismissed.

BRIEF FACTS OF THE CASE

2. The brief facts of the case are that on 13.10.08 at about 8.00 p.m. deceased Sanjeev Kumar was returning from village Bahadarpur on his Motor Cycle bearing No. HR02K-2168, when reached in front of the fields of Sanju son



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of Sadhu Ram of village Bahadarpur, then a tractor-trolley bearing No. HR05M-6567 (hereinafter referred to as the offending vehicle) being driven by respondent no.1 in a rash and negligent manner and at a high speed brought the tractor to wrong side and hit against the Motor Cycle of deceased, resulting injuries to the deceased and his subsequent death. It is alleged that the accident took place due to the sole rash and negligent driving of offending vehicle by respondent no.1. FIR No. 230, dated 14.10.2008, under Section 279,304-A IPC was registered against respondent no.1 at Police Station Sadar Yamuna Nagar.

3. Upon notice of the claim petition, respondents appeared and denied the factum of accident/compensation.

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

- 1. Whether the accident dated 13/14.10.08 resulting into causing the death of Sanjeev Kumar and damage to the Motor Cycle of Neeraj Kumar bearing No. HR02-K-2168 had taken place due to rash and negligent driving of respondent no.1 by driving the vehicle bearing No. HR-05M-6567? OPP*
- 2. If issue no.1 is proved, what amount of compensation the claimants are entitled to and from whom? OPP*
- 3. Whether respondent No.1 was unlicensed driver/was not holding valid and effective driving licence to drive the vehicle in question at the time of alleged accident, if so, its effect? OPR(3).*
- 4. Whether the vehicle in question was being driven without RC and other documents in violation of the terms and conditions of the policy as alleged in para no.2 of the preliminary objections, if so its effect? OPR(3)*
- 5. Whether the claimants have no locus standi to file the petition, if so its effect? OPRS*
- 6. Relief.*

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5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim petition. Hence the claimants/appellants filed the present appeal for grant of compensation.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

6. Learned counsel for the appellants contends that the claim petition was dismissed only on the ground that there are inconsistencies in the testimony of eye witness.

7. He further contends that learned Tribunal has wrongly dismissed the claim petition on the erroneous premise that the claimants/appellants failed to prove the involvement of offending vehicle.

8. He further contends that learned Tribunal has totally ignored the fact that police after doing investigation has presented challan against respondent No.1-driver of offending vehicle.

9. That Section 163-A of Motor Vehicles Act, 1988 is now substituted by Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) and compensation should be enhanced as per the substituted statutory provision i.e. Section 164 of the Act.

10. That the present case is covered by the judgment rendered by this Court in **FAO No.4301 of 2006**, titled as “**Akaljit Kaur and Others Vs. Parveen Kumar and Others.**” wherein the claim under Section 163-A of the Motor Vehicles Act, 1988 was converted to Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) by relying upon the judgment of Hon’ble *Supreme Court in the case of Ram Murti and others Vs. Punjab State Electricity Board [2022(4) TAC 738]* wherein it was held that Section 164 of the Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022) provides for payment of compensation in case of death in the amount of Rs.5 lakhs and in the case of

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grievous hurt of Rs.2.5 lakhs. He, therefore, prays that the present appeal be allowed and compensation be granted.

11. Per contra, learned counsel for the respondent No.3-Insurance Company contends that learned Tribunal has rightly dismissed the claim petition as the claimants/appellants have miserably failed to prove that accident caused due to involvement of the offending vehicle. He further contends that number of offending vehicle was not mentioned in the FIR. He, therefore, prays for dismissal of the present appeal.

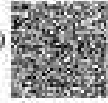
12. I have heard learned counsel for the parties and perused the whole record of this case.

13. The relevant portion of the award reads as under:-

“ISSUE NO.1.

12. To prove the issue in hand, the claimant examined Sahab Chand son of Mam Chand, r/o Khurdi, Tehsil Jagadhri, District Yamuna Nagar as PW7. He testified that he saw the accident caused by the driver (respondent Ram Pal) by driving the offending vehicle in a rash and negligent manner and caused straight hit into the Motor Cycle of the deceased. As a result, deceased succumbed to the injuries suffered in the accident.

13. Neeraj son of Hukam Chand, r/o Khurdi PW5 stated that his brother Sanjeev Kumar died in a motor vehicular accident dated 13.10.08 on Bahadarpur-Khurdi road, when he was traveling on Motor Cycle bearing No. HR02K-2168, caused by respondent no.1 by driving the offending vehicle in a rash and negligent manner. On his statement FIR Ex. P3 was registered. He also stated that Motor Cycle was badly damaged in the accident and he got it repaired by spending Rs. 26,682/-.



14. *Ram Pal son of Kishori Lal, resident of village Khurdi PW3 stated that on 13.10.08 at about 11.00 p.m. he was going to his village Khurdi on foot when he saw a tractor-trolley going at a very fast speed from the place of the accident and turned towards village Bahadarpur. He stated that later on he came to know that said tractor-trolley has caused accident with Sanjeev Kumar when he was traveling on his Motor Cycle. As a result, Sanjeev Kumar died due to the injuries suffered in the accident. He also stated that later on he came to know about the particulars of the offending tractor and of its driver.*

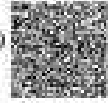
15. *Manjit Singh, Ahlmad to the court of ACJM, Jagadhri PW6 brought the summoned file of case titled as State Vs. Ram Pal, bearing FIR No. 623 of 2008, under Section 279/304-A IPC, Police Station Sadar Yamuna Nagar and stated that as per record the case is fixed for prosecution evidence. He tendered on record certified copy of FIR Ex. P3, certified copy of charge sheet Ex. P4, certified copy of report under Section 173 Cr. P.C. Ex. P5, certified copy of PMR Ex. P6.*

16. *Claimant Sheela appeared as Pw4 and stated that her son Sanjeev Kumar died in a motor vehicular accident in question.*

17. *Ashok Kumar C/o Rohit Automobiles, Yamuna Nagar PW1 stated that he repaired Motor Cycle bearing No. HR02K-2168 and tendered the bill of repairs Ex. P1 for Rs. 26,682/-*

18. *Pankaj, Photographer PW2 tendered the photographs of the w Motor Cycle bearing No HR02K-2168 Mark-A to Mark-E by stating that he had taken the same on the request of Neeraj Kumar.*

19. *Respondents no.1 and 2 did not lead any evidence on the 19. issue in hand.*

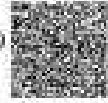


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20. Respondent no.3 on the other hand examined Samay Singh Administrative Officer, Insurance Co. Yamuna Nagar RW1 and tendered the assessment report pertaining to the Motor Cycle bearing No. HR02K-2168 as Ex. R6/A. Insurance policy was also tendered as Ex. R6. The copy of FIR was also tendered as Ex. R1, statement of Neeraj Kumar was also tendered as Ex. R2, site plan Ex. R3.

21. It was contended by the counsel for respondents that FIR is against unknown driver and vehicle and claimants have not been able to adduce any cogent and convincing evidence to prove the Involvement of offending vehicle in the accident. It was contended that PW3 and PW5 did not see the accident. Therefore, their testimonial account is of no use in establishing the involvement of the vehicle in question. It was also submitted that no reliance should be placed on the statement of PW7 as from his statement it is made out that he did not see the accident as he did not report the accident to the police nor to the claimants. Admittedly, he was not joined in the investigation. The claimants did not state that PW7 ever disclosed to them about the accident. It was thus urged that he is a procured witness being a co-villager and no reliance should be placed on his testimony.

22. It was submitted that in the absence of substantive evidence helping in establishing the involvement of the vehicle in question, no reliance should be placed on the evidence like copy of FIR, charge sheet etc which are not substantive piece of evidence to establish the involvement of the vehicle or the negligence of the driver and urged to answer the issue against the claimants. In support of their arguments, learned counsel referred to authorities titled as **Surinder Kaur and Ors. Vs. Raj Kumar and Ors. 1 (1994) ACC 372**

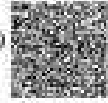


(P&H) and Ram Karan son of Shri Nand Lal and others Vs. Zile Singh son of Shri Partap Singh and others, 2001(3) PLR 125 (P&H), wherein it is observed that the judgment of conviction or acquittal of the criminal court is not binding upon the Tribunal. Likewise, mere framing of charge will not suffice in proving the negligence as onus of proving the negligence is always upon the claimants and they have to discharge the same.

23. Contra, the learned counsel for claimants stated that there is ample evidence which has established that the deceased died in the accident arising out of the use of offending vehicle. PW7 categorically alleged that he had seen the offending vehicle causing the accident and driver of the offending vehicle is facing the criminal trial for causing the death of the deceased by driving the offending vehicle in a rash and negligent manner, is sufficient corroborative piece of evidence to support the testimony of claimants and their witnesses and thus urged that the issue in hand be answered in favour of the claimants. In support of his arguments, learned counsel referred to authorities titled as:

Beni Bai & Anr. Vs. Chhandilal & anr., III(2005) ACC 21 (DB)(MP) and Girdhari Lal Vs. Radhey Shyam and others, 1993-2 PLR 109 (P&H), wherein it was observed that driver was being tried on account of rash and negligent driving is prima facie safe to conclude that accident occurred on account of rash and negligent driving of driver.

Manful & anr. Vs. Mehmood & Ors., 1 (2005) ACC 765 (DB) (MP), wherein it has been observed that in a case of motor accident strict rule of evidence are not applicable. It is to be established prima facie that accident took place with the motor vehicle and injury caused or resulted into death of the victim.



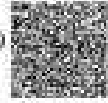
Lakhu Singh Vs. Uday Singh, 2008(1) RCR (civil) 805 (P&H), wherein it is observed that facts of registration of FIR and trial of the accused in a criminal court, are sufficient to arrive at a conclusion that accident has taken place.

24. The claimants Sheela etc. has filed the petition under Section 163-A of the Act for compensation for the death of Sanjeev. They are therefore, required to establish that death of Sanjeev occurred arising out of use of the offending vehicle. On other hand, in a petition Neeraj Kumar filed under section 166 of the Act, claimant is required to established that, motor cycle suffered the damage on account of the accident caused by offending vehicle by driving it in a rash and negligent manner. In both the petitions, the claimants are to establish the involvement of vehicle.

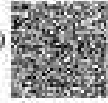
25. There is no gain saying that the claimant is required to bring cogent, reliable and positive evidence to substantiate his case. It is equally settled that filing of charge sheet, framing of charge, judgment of conviction or acquittal are not substantive piece of evidence, they are only corroborative plece of evidence to establish the accident, involvement of vehicle, resultant injuries or death in the accident.

26. From the contents of PMR Ex. P6, It is made out that deceased Sanjeev died due to the Injuries which were ante mortem in nature and were sufficient to cause death.

27. However, the question arises whether the offending vehicle was involved in the accident or death of deceased and damaged to vehicle HR02-K-2168 had taken place in the accident arising out of the use of offending vehicle in question. To establish the same, claimant primarily relied upon the testimony of PW7, Sahab Singh. However, ton assessment, his evidence

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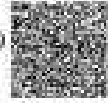
does not inspire confidence to hold that he is an eye witness to the accident and his version is true. Firstly, claimants did not plead that Pw7 had seen the accident and disclosed about the same to them. Nor does PWS Sanjeev Kumar depose to said respect. In the cross-examination PW7 deposed that he had gone to his fields to see the water arrangement, then saw the accident having caused by respondent no.1 by driving the offending vehicle and also saw deceased falling in the fields of sugarcane along with the Motor Cycle. He further testified that he came home and slept and in the morning he got up and came to know about the accident and resultant death of Sanjeev Kumar. Thereupon, he disclosed about the accident to his family members. However, his conduct does not reveal that he saw the accident as he did not testify that after seeing the accident he ever made any attempt to save Sanjeev Kumar or bring him out of the fields of sugarcane. He is a co-villager and (o had allegedly seen the accident. The natural conduct of any person in the circumstances would have been to save the victim/injured but the said conduct is not being reflected from his testimonial account, thereby making him unworthy of reliance. Had he seen the accident, he would have informed the family members of the deceased, but he did not do so, rather came home and slept. It is also not made out from his testimony that after coming to know about the death he ever informed the family members of the deceased of having seen the accident. He simply stated that he disclosed the fact of accident to his family members. He in the cross-examination admitted that police did not take his statement. So, all these facts have made his version unworthy of acceptance and accordingly, he is not



believed. He seems a procured witness and has come to depose In favour of the claimants being a co villager.

28. PW3 and PW5 are admittedly not the eye-witnesses to the accident. According to PW5 on gaining the information of the accident in the morning, he went to the spot alongwith 50-60 persons and saw his brother lying in the fields of sugarcane and Motor Cycle was also lying damaged, nearby. The marks of the tyres of the tractor were found present in the fields and they searched for the tractor and found standing In the house of Ram Sarup/respondent no.2. He also stated that the trolley had blood stains on it and they came to know that accident had been caused by respondent no.1 by driving the offending trolley. In the cross-examination PW5 stated that after one month of the accident, a boy from the village had disclosed having seen the accident.

29. Ram Pal PW3 in the cross-examination also stated that he did not see the accident. He also testified that he did not note the number of the tractor-trolley nor saw the driver of the said tractor-trolley, which passed through him at fast speed as he had no idea that said tractor- trolley had caused the accident. He also admitted that it was night time and because of that he could not see and note the number of the tractor. trolley. He simply testified that he had seen the tractor-trolley crossing the place of accident. He also stated that when police came at the spot he did not give the particulars of offending tractor-trolley and of the driver, as he had no knowledge of the same. He also testified that by tracing the marks of the tyres of tractor-trolley, they found the offending tractor standing in the 'gher'. He stated that people of village Bahadarpur had disclosed that the said tractor was Involved in the accident.



30. Admittedly, FIR is against an unknown vehicle and, driver. From the evidence discussed above, claimant has not been able to establish that the offending vehicle was involved in causing the accident. Merely tracing the vehicle from the marks of tyres as such would not go to establish that it was the same tractor-trolley which had caused the accident as no evidence has come on record to establish that the said marks of the tyres of tractor-trolley tally with the tyre or the marks of the tyres of the offending vehicle. No evidence like mechanical report has come on record to suggest that the tractor-trolley in question had some damage or blood stains on its body suggesting of its involvement in the accident. No photographs of tractor-trolley in question have been placed on record to establish that same involved in the accident. The testimonial account of PW3 and PW5 is of circumstantial character. However, they have not been able to bring on record any cogent and linking piece of evidence i.e. recovery memo, damage report of tractor except the testimony of PW7 to connect the tractor-trolley in question with the accident. Per allegations tractor had stuck against the motor cycle and then went into the fields, It must have suffered some damage or received some scratches that would have helped the claimants to support their version.

31. The Investigating Officer of the criminal case in these circumstances was another material witness who could have deposed about the facts connecting the offending tractor-trolley with the accident in question. In the absence of the same, the claimants have not been able to establish the Involvement of the vehicle in question. In view thereof, the trial of respondent no.1 In a criminal case etc. are not sufficient to establish the involvement of the offending vehicle in the accident as the said evidence is not a substantive evidence from

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which it can be conclusively held that the offending vehicle was involved in the accident.

32. In view of the aforesaid discussion, the claimants have not been able to establish that death of Sanjeev Kumar and damage to the Motor Cycle bearing No. HR02K-2168 took place in the accident arising out of the use of the offending vehicle. Accordingly, this issue is answered against the claimants.”

Analysis of the Record

14. A careful perusal of the impugned award reveals that the learned Tribunal fell into error in concluding that the claimants had failed to establish that the accident in question arose out of the use of the offending vehicle.

15. At the outset, the approach adopted by the Tribunal does not accord with the settled principles governing adjudication of claims under the Motor Vehicles Act. It is well established that proceedings before the Claims Tribunal are summary in nature and the standard of proof required is that of preponderance of probabilities, and not proof beyond reasonable doubt as in a criminal trial. The Tribunal, however, appears to have scrutinized the evidence with an undue degree of strictness, akin to a criminal proceeding, and in doing so, has discarded material evidence on insubstantial grounds.

16. The Tribunal has failed to appreciate the testimonies of PW-3 and PW-5 in their proper perspective. Though they may not be direct eyewitnesses to the occurrence, their statements form an important part of the chain of circumstances leading to the identification of the offending vehicle. Their depositions regarding the immediate aftermath of the accident, the presence of tyre marks, and the tracing of the tractor-trolley to the premises of respondent No.2 could not have been brushed aside lightly, particularly when such circumstances remained unshaken in cross-examination.

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17. Further, the Tribunal has placed undue emphasis on perceived inconsistencies and omissions in the testimony of PW-7, while ignoring the broader evidentiary picture. Even if the testimony of PW-7 is kept aside or treated with caution, the remaining evidence on record, when read cumulatively, was sufficient to probabalise the involvement of the offending vehicle.

18. It is also significant that although the FIR was initially registered against an unknown vehicle, the police, after due investigation, identified the offending vehicle and filed a charge-sheet against respondent No.1. The fact that the respondent No.1-driver is facing trial in respect of the same occurrence is a relevant circumstance which lends corroboration to the case of the claimants. While it is correct that such material may not constitute substantive evidence in strict terms, it cannot be wholly disregarded in proceedings of this nature, where a holistic and pragmatic assessment of evidence is required.

19. The Tribunal, in insisting upon direct and clinching proof of involvement, has overlooked the principle that in motor accident claims, the claimants are only required to establish their case on a balance of probabilities. The cumulative effect of the evidence led by the claimants, including the surrounding circumstances and the outcome of the police investigation, clearly tilts the balance in their favour.

20. In view of the aforesaid discussion, this Court is of the considered opinion that the claimants have successfully established that the accident in question occurred due to the use of the offending vehicle. The finding recorded by the learned Tribunal to the contrary is, therefore, unsustainable and liable to be set aside.

21. Consequently, the present appeal is allowed. The claimants are held entitled to compensation in accordance with law. The matter, if required, shall

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proceed further for determination of the quantum of compensation in terms of settled principles.

22. Since section 163-A of Motor Vehicles Act, 1988 is now substituted by Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022), compensation is liable to be enhanced as per the substituted statutory provision i.e. Section 164 of the Act, therefore, the appellants herein are entitled to be granted the benefit of beneficial provisions enacted by the Parliament under Chapter 11 of which Section 164 provides for payment of compensation in case of death in the amount of Rs.5 lakh and in case of grievous hurt to the extent of Rs.2.5 lakh.

23. Further, this Court in **FAO No.4301 of 2006**, titled as “**Akaljit Kaur and Others Vs. Parveen Kumar and Others**” held as under:-

“11. Hon’ble Supreme Court in the case of **Ram Murti and others Vs. Punjab State Electricity Board [2022(4) TAC 738]** held that the appellants therein to be granted the benefit of beneficial provision enacted by the Parliament under Chapter 11 of which Section 164 provides for payment of compensation in the case of death in the amount of Rs.5 lakhs and in the case grievous hurt of Rs.2.5 lakhs.

12. This Court in **FAO-195-2006** titled as ***Mamta and Others Vs. Happy and Others***, decided on 29.05.2024, held that since Motor Vehicle statute is a beneficial legislation, the Judge should not go into the technicalities of the provisions, under which the application or petition is moved but should apply his judicial mind, as these are only the irregularities and not illegalities which cannot be cured. It has been observed by the Hon’ble Supreme Court that the loss caused to the claimants or the relationship or to the victim of the limb cannot be compensated. Still the Court should make every effort by exercising its discretion empathetically. Further, Justice should actually be shown to



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be delivered by application of judicial mind with intelligence, prudence, care and caution and by showing empathy. The Court decision should be such that they strengthen the trust and confidence of public and litigants in judicial system and judiciary.”

24. In view of the above, the present appeal is allowed. Accordingly, the award dated 15.05.2010 is modified by converting the claim petition under Section 163-A (pre 2018 amendment) to Section 164 (post 2018 amendment) of the Motor Vehicles Act, 1988. As such, the claimants/appellants are held entitled to the compensation to the tune of **Rs.5,00,000/-**.

25. So far as the interest part is concerned, as held by Hon’ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R.Valli and Others VS. Tamil Nadu State Transport Corporation** (2022) 5 Supreme Court Cases 107, the appellants-claimants are granted the interest @ 9% per annum on the amount from the date of filing of claim petition till the date of its realization.

26. The Insurance Company is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The appellants-claimants are directed to furnish their bank account details to the Insurance Company/Tribunal.

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

(SUDEEPTI SHARMA)
JUDGE

24.03.2026

Ayub

Whether speaking/non-speaking : Speaking
Whether reportable : Yes