



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

FAO-763-2011 (O&M)

Date of Decision: January 16, 2026

Veena Rani and others

...Appellants

VERSUS

Daksh Jindal and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Ankush Verma and Mr.C.K.Jangra, Advocates
for the appellants.

Mr.Padamkant Dwivedi and Ms.Ayushi, Advocates
for respondent No.1.

Mr.D.P.Gupta, Advocate
for respondent No.2.

None for respondent No.3.

ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, assailing the judgment of dismissal of the claim petition filed at their instance for seeking compensation, on account of death of Dimple, in a motor vehicular accident.

The facts germane, to be noticed, are as herein given:-

That, on 13.03.2007, Dimple had gone to Dharampur along with respondent No.1-Daksh Jindal, in Honda City car bearing registration No.PB-48B-0048. The said was being driven by respondent No.1-Daksh

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Jindal, in rash and negligent manner and at a high speed. When they reached near Cosmo Factory, Jabli, near Parwanoo, District Solan, then on a curve, respondent No.1, could not control the said car and said car fell in a trench, which was about 250 feet deep. On account of the accident, Dimple had sustained injuries and she was taken to Civil Hospital, Parwanoo, where she was declared to be dead.

Further, FIR was got registered by ASI Phool Singh in Police Station Parwanoo. The present case relates to road accident, but however, it was also averred by the appellants-claimants that they have apprehension about foul play, having played by respondent No.1 by killing Dimple intentionally and knowingly and by giving the said incident, a shape of road accident.

Also, it was asserted that Dimple was 20 years old, at the relevant time and she was student of Ropar Riyal College in 2nd year of Engineering of Computer Science and she was giving tuition and earning Rs.8000/- to Rs.13,000/- per month.

In response, respondent No.1 filed reply, thereby, denying the accident in toto. Also, it was averred that a false FIR has been registered against him by the claimants and he has been falsely implicated in the alleged accident. Neither, he was driving the offending vehicle, nor he was owner of the vehicle in question.

Respondent No.2-insurance company had filed separate reply, thereby, asserting about the driver of the offending vehicle, to be not holding legal and valid driving licence, at the time accident. The claim petition is bad for non-joinder of the necessary parties and also disputed the maintainability of the petition and further that this Court has no jurisdiction to decide the claim petition. All other, averments with regard to age,



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vocation followed by the deceased, as such, were denied. Also, it was averred that a false case has been registered.

Even, in pursuance of the application, thereafter, filed at the instance of the claimants, respondent No.3 was impleaded in the present case and despite service, he never made appearance.

From the pleadings of the parties, following issues were framed:-

- “1. Whether on 13.3.2007 at about 4.00 p.m. near Cosmo Factory, Dimple daughter of Sukhwinder Kumar died due to the rash and negligent driving of car bearing No.PB-48B-0048 by respondent No.1? OPA.*
- 2. Whether the driver of offending vehicle was not holding a valid and effective driving licence at the time of accident? OPR2*
- 3. To what amount of compensation, the claimants are entitled to and from whom? OPP.*
- 4. Relief.”*

To substantiate their claim, the appellant-claimant Veena Rani, stepped into witness box as CW-2 and appellant-claimant Rimple, stepped into witness box as CW-3 and further, they had also examined CW-1 Parkash Chand. Besides the same, documentary evidence, in the form of Ex.C1 to Ex.C4, which are copy of FIR, post-mortem report, receipt of dead body and copy of the challan, was adduced in evidence.

On the other hand, counsel for respondent No.2, tendered into evidence, policy Ex.R1 and respondent No.1 tendered into evidence, copy of DL Ex.R2, copy of RC Ex.R3 and cover note Ex.R4.

After hearing counsel for the parties and on appraisal of the evidence, brought on record, learned Tribunal concluded that there is no



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evidence to hold that the accident in question had taken place, due to rash and negligent driving of respondent no.2, nor it is established that Dimple had died in the alleged accident. Consequently, the claim petition was dismissed.

Being aggrieved, the appellants-claimants, have filed the present appeal.

At the very outset, it should be noted that to establish tortious liability, the evidence adduced ought to be appraised, on the principle of probability and not like a criminal case, to prove the accusations, beyond shadow of reasonable doubt. In *Anita Sharma and others vs. New India Assurance Company Limited and another, 2021(1) SCC 171*, it was held that the standard of proof, that is required to be adopted in proving the accident, is that of preponderance of possibility and reliance upon the same was further made in the case titled '*The Divisional Manager, Shriram General Insurance Company Limited, Hubballi, now presented by its authorized signatory vs. Sri Yunus @ Yunusahamad @ Mohammadyunus and another, in MFA-104098 of 2017*'.

Learned Tribunal, throughout the impugned judgment, has laid much emphasis upon there being no account of eye witness, vis-a-vis, the accident in question. May it be so, even then, in a motor accident claim, presence of eye witness does not automatically negate the establishment of negligence, when FIR and challan are filed against the owner and driver of the offending vehicle.

Undisputedly, in the case in hand, Parkash Chand, alleged eye witness was examined as CW-1. He had stated that the police had recorded his statement and that he was working as Security Guard at HPL Factory in

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village Jabli. He further stated that he heard that the accident took place, but he has not seen the accident and he cannot tell, in what manner, the girl had died. One boy and girl were taken by them under rainy shed from the road. In a way, this witness has not supported the version of the claimants.

Veena Rani and Rimple, who are mother and sister of the deceased respectively, stepped into witness box and admitted that they had not witnessed the accident, but at the same time, it must be noted that FIR was registered and challan against respondent No.1 was filed. This fact, as such, cannot be brushed aside.

From the challan Ex.R4, it is evident that soon after the accident, rapat no.3 was recorded and thereupon, ASI Phool Singh had gone to the spot and probed into the matter. The car involved in the accident was Honda City bearing registration No.PB-48B-0048 and was retrieved from the trench 250 feet deep down the road.

On further enquiry, it was also found by ASI Phool Singh that Daksh Jindal s/o Rajinder Prasad, r/o 208, Ward No.7, Mandi Gobindgarh, District Fatehgarh Sahib along with his girlfriend Dimple @ Jassi S/o Sukhwinder Kumar, caste Khatri r/o 3984, Sanipur Road, Ravidas Nagar, Sirhind, District Fatehgarh Sahib, had come from Chandigarh, in the aforesaid car, for an outing upto Kasauli Mor, Dharampur. Also, it was found that Daksh Jindal was driving the car and Dimple @ Jassi was sitting next to him. When Daksh, while driving the car, at the aforementioned time, reached a little behind the Cosmo Factory at Jabli, he lost control of the car, due to high speed and the car fell into the gorge, about 250 feet below. Daksh Jindal and his girlfriend were taken out by the factory workers and kept at the rain shelter of Cosmo Factory, where Dimple @ Jassi had died.



It was held that this accident had occurred due to high speed, rashness and negligence of the car driver Daksh Jindal. Thereupon, it was concluded that offence under Section 279, 337 and 304-A IPC was found to have been committed. Based on this information, the investigation was further conducted by ASI Phool Singh. Medical examination was got conducted. Daksh Jindal was arrested and released on bail. On completion of investigation, the challan was presented under Sections 279, 337, 304-A IPC and 185 of the Motor Vehicles Act.

No doubt, as emphasized by counsel for respondents No.1 and 2, ASI Phool Singh has not been examined and if he had been so examined, many things would have straightened. But may it be so. In any case, the manner of recording of the FIR Ex.C1 and the particulars of respondent No.1, having come forth and the retrieval of the car, as such, from the trench 250 feet deep down the road, speaks volumes about the factum of accident and manner of taking place of the same, which, as such' cannot be overlooked. Given the same, it is also essential to note that even though, respondent No.1-Daksh Jindal had joined the proceedings and filed reply to the claim petition, whereby, he took the plea of total denial of the accident and his involvement therein and also pleaded false implication, but however, he did not step into witness box for the reasons, best known to him. In fact, in view of the manner of his nomination as an accused in the criminal case, he was the most important person to explain about his involvement and manner of taking place of the accident or not, but however, he remained away from the witness box. This silence in itself, carries weight and speaks about the role assigned to him.

Such being the circumstances, spelt out, even if, eye witness



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account is not there, the probe conducted by the police officer, whereby, the particulars of the occupants of the car and the particulars of the car, are clearly coming forth and the car was also retrieved and about the FIR having been lodged promptly and subsequently, after the investigation, challan having been filed, it cannot, in any manner, be held that the negligence is not established.

In this regard, beneficial reference is made to decision rendered by the Hon'ble Supreme Court in ***Meera Bai and others vs. ICICI Lombard General Insurance Company Ltd. and another, 2025(2) RCR (Civil) 747***, wherein, there was no eye witness account coming forth, learned Court took into consideration the fact of FIR having been lodged and chargesheet having filed against the owner and driver of the offending vehicle and on this account, it was observed that there could be no finding that the negligence was not established. It was held that absence of eye witness does not automatically negate the establishment of negligence, when FIR and chargesheet are filed against the owner and driver of the offending vehicle.

In '***The Divisional Manager, Shriram General Insurance Company Limited, Hubballi, now presented by its authorized signatory vs. Sri Yunus @ Yunusahamad @ Mohammadyunus and another, in MFA-104098 of 2017***' the Hon'ble Karnataka High Court, Dharwad Bench, had placed reliance upon decision rendered by the Hon'ble Supreme Court in ***Anita Sharma and others vs. New India Assurance Company Limited and another, 2021(1) SCC 171***, wherein, it was held that the standard of proof, that is required to be adopted in proving the accident is that of preponderance of possibility. It was held that many a times, on account of facts and circumstances of the case, it is highly difficult for the investigating



agency to investigate the matter, especially by examining the eye witnesses, more particularly, as many a times, witnesses are also not interested in setting of the criminal law in motion and also about certain other inhibitions, on account of their past experience with the investigating agency or general impression, they carry about the police. Considering the same, it was held that expecting eye witness to be present in each and every case, is far from reality.

Thus, in the backdrop of the aforesaid case law, taking into consideration the contents of the FIR and also about the manner, in which, it was lodged as well as considering the challan having presented against respondent No.1 and also considering the kind of injuries sustained, which are spelt out from the PMR, brought on record, the same ought to be taken into consideration. The fact of accident and manner of taking place of the same and the incriminating role of Daksh Jindal, for the purposes of adjudicating on the claim petition, is evident.

The next contention raised by counsel for respondent No.1 and 2 is that the appellants-claimants were raising accusations thereby, suspecting murder of Dimple, caused at the instance of Daksh Jindal and therefore, it is submitted by the counsel that it cannot be held that it was an accident, as now claimed by the appellants-claimants. However, the aforesaid submission is bereft of merits. Even though, while filing the claim petition, it was a mention made about foul play, being played by respondent No.1, by killing Dimple, intentionally and knowingly, by giving the said incident, a shape of road accident, but however, may it be so. The FIR was got registered after probing into the matter and further investigation having been conducted, which led to filing of the challan, ought to be considered.



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On this basis, suffice to conclude about the accident having been caused, due to rash and negligent driving of car bearing No.PB-48B-0048, driven by Daksh Jindal, as a result whereof, the car fell into the trench 250 feet deep down the road and led to the injuries on the person of Dimple, which proved fatal.

The same ought to be taken into consideration. In this regard, reliance is placed upon the decision rendered by the Hon'ble Andhra Pradesh High Court in *Bodapati Thataro vs. Bodapati Ramasubhamma and others, 2025 (1) Law Summary 38*, wherein, despite the complaint of the appellant, suspecting murder for investigation, was closed and direction for re-investigation was also dismissed and the driver/owner of the car was acquitted, it was held that the Motor Vehicle petition is maintainable for claiming compensation.

This is also the position in the present case. After the investigation, the challan was presented against respondent No.1. Even if, there was wide allegation of assertion of murder, but there is nothing as such, with regard to establishment of this assertion and considering the same and also about the manner of criminal case registered against respondent No.1-Daksh Jindal, with promptitude and the challan having presented, suffice to consider the same, which proves the factum of accident and manner of taking place of the same and also about the car, at the relevant time, to be driven by respondent No.1-Daksh Jindal. Even, the factum of death of Dimple d/o Sukhwinder Kumar, as a result of the accident in question, as such, stands amply established.

In the light of the same, the findings on issue No.1 are hereby reversed.



Now, arises the question, with regard to entitlement of the appellants-claimants to compensation. The claim petition was filed by parents and younger sister of the deceased.

Sukhwinder Kumar is father of the deceased. It is submitted that father, as such, cannot be held to be dependent upon the deceased, who was 20 years old, at the relevant time. However, the contention so raised, is bereft of merits. Even if, we begin with the presumption that father, as such, was not financially dependent upon his deceased daughter, but however, it is pertinent to mention that even though, a person, who may be earning, may not be financially dependent on his daughter, who has departed from the world, but however, it should be noted that the word '**dependent**' has a different meaning in different connotation. Some may be dependent in terms of money and others may be dependent in terms of service. Thus, dependency is a relevant criteria to claim compensation for loss of dependency. It necessarily does not mean financial only. It also includes gratuitous service dependency, physical dependency, emotional dependency, psychological dependency, and so on and so forth, which can never be equated in terms of money.

Considering the same, even though, the deceased daughter may not be rendering financial assistance to her father, but however, emotional and psychological dependency upon the young daughter, by the father, as such, ought to be there and considering the same, the father of the deceased, ought to be paid the compensation. The emotional dependency of the parents of a young daughter, who had died, as such, cannot be overlooked.

As per *Magma General Insurance Company Limited vs. Nanu*

Ram @ Chuhru Ram and others, 2018 (18) SCC 130, the claimants are



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entitled to compensation, on the count of 'loss of consortium, be it 'filial', 'spousal' or 'parental', which also comprehends 'loss of love and affection'.

As per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, the minimum amount payable is Rs.40,000/-.

While applying enhancement clause to the extent of 10%, after every three years of passing of the judgment, the amount of compensation payable is Rs.48,400/- each. Even, on the count of 'loss of estate' and 'funeral expenses', the amount now payable is **Rs.18,150/-** on each count.

As 'loss of consortium' also comprehends 'loss of love and affection', therefore, younger sister of deceased, is also entitled to some extent of compensation, though the such extent can be taken into consideration, while making the apportionment.

Now, coming to the earnings of the deceased. It is stated that the deceased was student of 2nd year of Engineering of Computer Science. However, no evidence, as such, has come on record. Even though, her indulgence in the tuition work is asserted and her earnings are stated to be Rs.8000-Rs.13,000/- per month, but apart from bald statement made by the mother and sister of the deceased, nothing is coming on record, with regard to the vocation followed by the deceased and also the extent of her earnings.

In the given circumstances, considering the minimum wages, prevalent at the relevant time, making a modest estimate, the earnings of deceased, as such, are taken to be Rs.2500/- per month.

Deceased Dimple was 20 years old, at the relevant time. Considering her age, addition of 40% ought to be made, on the count of 'future prospects'. As the deceased was unmarried, the deduction to the extent of 1/2, on the count of 'personal expenses', ought to be made. As per



Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77, the appropriate multiplier, to be applied is ‘18’.

Considering the same, the compensation payable to appellants-claimants, on account of death of Dimple is computed, as herein given:-

Monthly income	Rs.2500/-
Addition of 40%	Rs.2500+1000=Rs.3500/-
Deduction of 50%	Rs.3500-1750=Rs.1750/-, annual whereof is Rs.21,000/-
Multiplier of ‘18’	Rs.21,000x18=Rs.3,78,000/-
Loss of consortium	Rs.1,45,200/-
Loss of estate	Rs.18,150/-
Funeral expenses	Rs.18,150/-
Total	Rs.5,59,500/-

As such, the appellants-claimants are held entitled to the compensation to the extent of **Rs.5,59,500/-**. They shall also be entitled to the interest, at the rate of 6% per annum, from the date of filing of the claim petition, till realization of the amount of compensation. Out of the compensation, as now worked upon aforesaid, appellant-claimant No.1 is held entitled to **Rs.4,59,500/-**, whereas, appellants-claimants No.2 and 3 are held entitled to **Rs.50,000/-** each. The liability of respondents No.1 and 2, shall be joint and several, to pay the amount of compensation as now worked upon aforesaid.

With the above observations, the present appeal stands allowed.

January 16, 2026
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No