

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-3811-2014 (O&M)

NEW INDIA ASSURANCE CO. LTD.

..Appellant

Versus

VIVEK AND ANR.

..Respondents

Reserved on: 04.05.2026

Pronounced on: 14.05.2026

Uploaded on : 20.05.2026

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. Ravinder Arora, Advocate and
Mr. Neeraj Khanna, Advocate
for appellant-Insurance Company.

Mr. Sant Lal Barwala, Advocate
for respondent No.1.

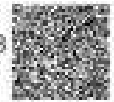
Respondent No.2 proceeded *ex parte* v.o.d. 08.12.2014.

SUDEEPTI SHARMA, J.

1. The present appeal has been filed by the appellant-Insurance company against the award dated 21.01.2014 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal'), wherein the claim petition filed by the claimant was allowed and appellant-Insurance company was made liable to pay the compensation.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 24.01.2011 the petitioner was going on his Motor Cycle, bearing registration No.HR-20J/2551, from Satrod



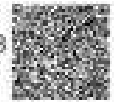
to Buniyad School alongwith his friend Naveen, son of Sanjay Shri Vastav, resident of Shiv Colony, Hisar. The petitioner drove the motor cycle at a moderate speed, in the left side of the road and observed all the traffic rules. At about 3.30 P.M., when they reached near the over-bridge, a Swift Cart, bearing registration No.HR-20T/0772, driven by respondent No.1 in a rash, negligent manner and without blowing horn, in a very high speed, came from opposite side and directly struck into the motor cycle of the petitioner. Due to the accident, the petitioner and his friend Naveen received serious and grievous injuries all over their body. The petitioner and Naveen were shifted to Jindal Hospital Hisar. The petitioner received cervical spine injuries and the motor cycle of the petitioner was also damaged in the accident. The petitioner upto the presentation of petition was under treatment and become permanently disabled due to injuries received in the accident. First information report No.112, dated 09.02.2011, was registered with Police Station, Sadar, Hisar.

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 the accident in question resulting into injuries to petitioner took place on account of rash and negligent driving on the part of respondent No.1 while driving vehicle bearing registration No.HR-20-T/0772? OPP.

2. If issue No.1 is proved, whether the petitioner is entitled to claim compensation. If so, how much and from whom? OPP.



3. Whether insured/owner of the vehicle has violated terms and conditions of the insurance policy, if so to what effect? OPR2.

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 claimant. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:

7. Learned counsel for the appellant–Insurance Company contends as under:-

i. That the learned Tribunal has erred in holding that accident occurred due to rash and negligent driving of respondent No.2 (driver-cum-owner of the offending vehicle).

iii. That there is glaring contradiction in the testimony of PW-4. Therefore, he prays that the present appeal be allowed.

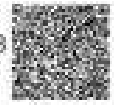
8. Per contra learned counsel for claimant/respondents No.1 contends as under:-

i. That learned Tribunal has rightly held that accident occurred due to sole rash and negligent driving of driver-cum-owner of the offending vehicle.

ii. That respondent No.2- driver-cum-owner of the offending vehicle admitted his guilt before the Court.

iii. That compensation awarded by the learned Tribunal is on lower side and deserves to be enhanced.

iv. That he has filed separate appeal bearing No.***FAO-497-2015, titled as “Vivek Vs. Subash Chand and another”*** seeking enhancement. Therefore, he prays that the present appeal be dismissed.



9. I have heard learned counsel for the parties and perused the whole case file with their able assistance.

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

“ISSUE NO.1

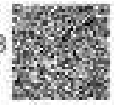
11. PW4 Vivek and PW3 Naveen were examined to prove the rash and negligent driving of respondent No.1, who submitted their affidavit Ex.PW4/A and Ex.PW3/A respectively stating therein the facts pleaded in the petition regarding the rash and negligent driving of respondent No.1.

12. PW4 admitted in the cross-examination that on the over bridge there was a divider. It was stated that passers by had taken them to the hospital in a car and that he narrated the facts of the accident and particulars regarding the offending vehicle to the doctor; that the accident took place at the foot of the bridge; that he fell on the roof of the offending Car and thereafter on the wind screen, whereas Naveen fell near the footpath. It was stated that driver of the offending vehicle took them to the hospital and got them admitted there.

13. Dr.Shantanu Rawat deposed that Vivek was brought by his father Jai Parkash and that information sent to the police regarding the admission of the injured was not available in the record brought by him in the court.

14. The respondents in order to disprove the facts regarding the rash and negligent driving of respondent No.1, examined RW1 ASI Om Parkash, who investigated the case, prepared rough site plan of the place of occurrence upon the instructions of Naveen, copy of which was proved as Ex.RX.

15. In the cross-examination, it was stated by ASI Om Parkash that accused Subhash in the present case

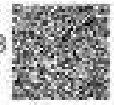


confessed his guilt in the court, upon which, he was sentenced to make payment of Rs.2500/- as fine.

16. In this case, the accident took place on 24.01.2011, MLR was received by the police on 25.01.2011. Police reached the hospital, but could not record the statement of petitioner as he was feeling fit to make statement and upon getting information regarding his fitness on 9.2.2011 the police reached the hospital and recorded his statement. On 26.1.2011, the doctor declared the injured fit for making the statement, but PW Vivek stated that he was not able to make statement. It was also stated by him that his hand was is not in working condition, as such police obtained his thumb impressions and on 9.2.2011 information was received by the police that Vivek was in a position to give statement, upon which the police reached to the hospital and recorded his statement. So the delay in the registration of the case has been explained in the FIR Ex.P86 itself.

17. As to why the police did not record the statement Naveen has not been proved by respondent despite the fact that respondent No.2 examined the Investigating Officer in the present case. So the contention that the FIR was registered by implicating false person and wrong vehicle is not acceptable.

18. The respondent examined the Investigating Officer of the case, who proved the site plan Ex.RX. The signatures of witness was not obtained on the site plan, nor it has been stated in the site plan Ex.RX that it was prepared upon the instructions of Naveen Kumar. The site plan was not put to PW Naveen at the time of his deposition. Therefore, site plan Ex.RX can not be relied upon in order to disprove the factum of rash and negligent driving of the respondent No.1. Further the distance between point A and the divider has not been given in Ex.RX, therefore,



it can not be said that the accident did not take place due to rash and negligent driving of respondent No.1 or that it was a case of contributory negligence.

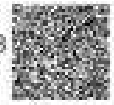
19. Further the petitioner and his companion were just to enter the over bridge, whereas the respondent No.1 was alighting from the over bridge. The speed of a vehicle generally increases while coming down, whereas the speed of vehicle decreases while going up.

20. In view of above discussion, it is held that the accident took place due to rash and negligent driving of respondent No.1 while driving the offending vehicle. This issue is decided accordingly.”

11. A perusal of the award reveals that the findings recorded by the learned Tribunal on Issue No.1 do not suffer from any illegality or perversity warranting interference by this Court. The learned Tribunal has appreciated both the oral as well as documentary evidence available on record before returning the conclusion that the accident occurred on account of rash and negligent driving of respondent No.2.

12. The testimony of PW3-Naveen and PW4-Vivek consistently established the manner in which the offending vehicle struck the claimant while being driven at a high speed. Their statements remained cogent and trustworthy on material particulars. Merely because PW4-Vivek admitted in cross-examination that there existed a divider on the over bridge, no inference of contributory negligence could automatically be drawn, particularly when no convincing evidence was led by the respondents to probabalise such a defence.

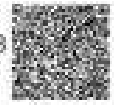
13. The learned Tribunal has rightly noticed that PW4 specifically deposed that the offending vehicle hit them while respondent No.2 was



descending from the bridge, whereas the claimant was ascending towards it. The observation of the learned Tribunal that the speed of a vehicle ordinarily increases while coming down a bridge is a reasonable inference drawn from the attending circumstances and cannot be termed conjectural.

14. The evidence of RW1 ASI Om Parkash, the Investigating Officer, also does not advance the case of the appellant-Insurance Company. Rather, in his cross-examination, he categorically admitted that respondent No.2 had confessed his guilt in the criminal proceedings and was sentenced upon payment of fine. The delay in registration of the FIR also stood satisfactorily explained through the testimony of the Investigating Officer, who deposed that the injured was initially not in a fit condition to make a statement and his statement could only be recorded subsequently after medical opinion regarding fitness was obtained. Therefore, the contention regarding false implication of the vehicle or driver was rightly rejected by the learned Tribunal.

15. The learned Tribunal has further rightly discarded the evidentiary value of the site plan Ex.RX. Admittedly, the same neither bore the signatures of the witness nor reflected that it had been prepared at the instance of PW3-Naveen Kumar. Significantly, the said site plan was never put to PW3 during his cross-examination. Moreover, the material particulars regarding the exact distance between the point of impact and the divider were absent from the site plan. In such circumstances, the learned Tribunal was justified in holding that Ex.RX could not be relied upon to discredit the ocular version of the eyewitnesses or to establish contributory negligence on the part of the claimant.



16. It is well settled that proceedings before the Motor Accident Claims Tribunal are summary in nature and strict rules of evidence are not required to be applied with rigidity. The claimant is only required to establish their case on the touchstone of preponderance of probabilities. In the present case, the consistent testimonies of the injured witnesses, coupled with the criminal proceedings against respondent No.2 and the absence of any convincing rebuttal evidence, sufficiently established rash and negligent driving of the offending vehicle.

17. Accordingly, this Court finds no reason to differ with the well-reasoned findings recorded by the learned Tribunal holding that the accident occurred due to rash and negligent driving of respondent No.2. The findings on Issue No.1 are, therefore, affirmed.

18. In view of the above discussion, the present appeal is hereby **dismissed** being bereft of any merit.

19. Pending miscellaneous applications, if any, are also disposed of.

14.05.2026

Ayub/Sahil

**(SUDEEPTI SHARMA)
JUDGE**

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