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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. FAO-3628-2016 (O&M)

BALINDER KUMAR

.....Appellant

Vs.

JOSH PREET SINGH & ANR.

.....Respondents

2. FAO-4884-2016 (O&M)

PREET PAL SINGH

.....Appellant

Vs.

JOSH PREET SINGH & ANR.

.....Respondents

Reserved on:- 01.05.2026

Pronounced on:- 22.05.2026

Uploaded on:- 26.05.2026

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. Aman Sorout, Advocate
for Mr. Diwan S. Adlakha, Advocate
for the appellants.

Mr. Ravinder Jain, Advocate
for respondent No.1.

Mr. Chandan Deep Singh, Advocate
for respondent No.2-Insurance Company.

SUDEEPTI SHARMA J.

1. Since, the challenge in the above referred to appeals is to award
dated 17.09.2015 passed in the claim petition filed under Section 166 read



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with Section 140 of the Motor Vehicles Act, 1988, by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short, 'the Tribunal'), whereby, claim petition filed by the appellants/claimants, were dismissed, therefore, both the appeals are decided vide this common judgment.

BRIEF FACTS OF THE CASE

2. The brief facts of the case are that on 4.7.2013, claimant alongwith one Preet Pal son of Goverdhan Singh was going to their college i.e. Krishna College of Education and Technology towards Sadhaura side on their motorcycle bearing No.HR02-1863, being driven on correct side at moderate speed. When they reached near Krishna College, they saw that a cow suddenly appeared and respondent no.1 who was coming from Sadhaura side driving the car No.HR71B-0880 in very high speed, tried to cross the cow first, and to do this he enhanced the speed of his car without blowing horn and came to his extreme wrong side, where claimant alongwith Preet Pal Singh was standing on their correct side and struck the motorcycle of claimants and caused the accident. After the accident, he was taken to Trauma Centre, Civil Hospital, Yamuna Nagar where he was medicolegally examined and thereafter, he was shifted to Aggarwal Hospital, Jagadhri due to injuries sustained in the accident, where he remained admitted w.e.f. 4.7.2013 to 26.7.2013. Meanwhile, the respondent no.1 tried to compromise the matter with the claimant and during this period, the respondent no.1 in connivance with the police has got signed the claimant on some blank papers, but the said compromise was not affected as after getting



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the signature of the claimant on blank papers, the respondents no.1 did not come to the claimant for compromise. Thereafter, the claimants approached to the police to get lodge the FIR against the respondent no.1, but the police flatly refused to take any action against the respondent no.1. The said accident has been caused due to the rash, negligent and speedy driving of the respondent no.1, while driving the car No.HR71B-0880, without blowing horn at very high speed which is owned by the respondent no.1 and is insured with the respondent no.2 and as such the respondents are jointly and severally liable to pay the compensation to the claimant. The claimant is aged 24 years and working as lecturer in Krishna Institute of Education and Technology and was earning Rs.12,000/- per month. Claimant has spent about Rs. one lac on treatment, medicines, special diet, transportation etc. and still spending being OPD patient. The claimant sustained multiple, grievous and serious injuries on his person on his limbs of the body and also suffered fracture on his left leg. The claimant was a man of sound health and was helping hand of his family. The said accident has badly affected the life of the claimant and he is not in a condition, in which he was before accident and unable to do his daily routine work perfectly and the claimant is still on bed and is not attending the college.

3. Furthermore, in the second appeal i.e. FAO-4884-2016, the brief facts are that in the accident, Preet Pal Singh has sustained multiple, grievous and serious injuries on his person on his limbs of the body and also suffered fracture on his left leg. After the accident, he was taken to Trauma Centre, Civil Hospital, Yamuna Nagar where he was medico legally



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examined and thereafter, he was shifted to Aggarwal Hospital, Jagadhri due to injuries sustained in above accident, where he remained admitted w.e.f. 4.7.2013 to 26.7.2013. and was operated and rod was inserted in his fractured leg. The claimant is aged 37 years and working as lecturer in Krishna Institute of Education and Technology and was earning Rs.14,000/- per month. The claimant has already spent a sum of `1,00,000/- on his treatment and the claimant is still under the treatment. Prior to the accident the claimant was a man of sound health and was helping hand of his family. The said accident badly affected the life of the claimant and he is not in a condition, in which he was before accident and unable to do his daily routine work perfectly and the claimant is still on bed and is not attending the college. Thus, a sum of Rs. ten lacs under Section 166 of M. V. Act alongwith interest has been claimed as compensation. All the respondents being driver-cum-owner and insurer are jointly and severally liable to compensate the claimant.

4. Upon notice of the claim petition, the respondents appeared and filed their separate replies denying the factum of accident/compensation.

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

“1. Whether the accident in question allegedly resulting into injuries to claimants Balinder Kumar and Preet Pal Singh in a road side accident taken place on 4.7.2013 due to rash and negligent driving of vehicle bearing registration No.HR71B0880 by respondent no.1?OPP



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2. If issue No.1 is proved, what amount of compensation the claimant Balinder Kumar, is entitled to an from whom? OPP

3. If issue No.1 is proved, what amount of compensation the claimant Preet Pal Singh is entitled to an from whom? OPP

4. Whether the vehicle in question was being driven in violation of the terms and conditions of the insurance policy? If so, to what effect?OPR-3.

5. Relief.”

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim petitions. Hence, the present appeals.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

7. Learned counsel for the appellants/claimants contends as under:-

- i. That the learned Tribunal while deciding the claim petition did not appreciate the facts and evident on record.
- ii. That only on the basis of DDR, wherein, it is stated that the matter is compromised and the claim petition is dismissed on the ground that the appellants are not able to prove that the accident in question took place due to rash and negligent driving of respondent No.1 (driver of offending vehicle).
- iii. That the learned Tribunal has failed to appreciate the very fact that appellant was admitted in hospital for 23 days.



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- iv. That learned Tribunal has failed to appreciate the evidence of PW-1 and PW-2 (injured eye-witnesses), who explained about the accident.
- v. That driver and owner admitted the factum of accident in question. Therefore, he prays that the present appeal be allowed.

8. *Per contra*, learned counsel for respondents, however, vehemently argues on the lines of the award and submits that the claim petitions have rightly been dismissed by the learned Tribunal. Therefore, they pray for dismissal of the appeals.

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

10. A careful perusal of the impugned award reveals that the learned Tribunal has erred in law as well as on facts while holding that the claimants/injured failed to establish that the accident in question had occurred on account of rash and negligent driving of the offending vehicle.

11. The learned Tribunal has failed to appreciate that both the appellants/claimants, namely Balinder Kumar and Preet Pal Singh, who are themselves injured eye-witnesses to the occurrence, categorically deposed before the Tribunal that the accident had taken place solely due to the rash and negligent driving of the offending vehicle. Their ocular version regarding the manner of occurrence remained consistent and nothing substantial could be elicited during the course of their cross-examination so as to discredit their testimony. The statements suffered from no material



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contradiction and, therefore, the same could not have been discarded merely on the basis of the contents of DDR dated 08.07.2013 (Ex.P-98).

12. A perusal of record further reveals that learned Tribunal has placed undue and misplaced reliance upon the DDR (Ex.P-98), wherein, it was mentioned that the accident occurred due to sudden appearance of a stray cow on the road. However, the learned Tribunal completely ignored the explanation furnished by the appellants/claimants that talks of compromise were going on between the parties and, on account thereof, the correct version of the occurrence was not recorded in the DDR. The possibility of the appellants/claimants not disclosing the true facts at the initial stage owing to compromise talks could not have been ruled out, particularly when subsequently both the injured eye-witnesses stepped into the witness box and deposed on oath regarding the actual manner of occurrence.

13. The learned Tribunal further failed to appreciate that the substantive evidence adduced before the Tribunal is required to be given due weightage and over the contents of the FIR/DDR. Once both the injured eye-witnesses categorically stated before the learned Tribunal that the accident had occurred due to sole negligence of the driver of the offending vehicle and their testimony remained unimpeached, there was no occasion for the learned Tribunal to discard the same merely on the basis of an earlier DDR.

14. At this stage, reference may be made to the judgment rendered by the Hon'ble Supreme Court in **National Insurance Company Ltd. v. Chamundeswari, 2021 INSC 592**, wherein it has been held that if any evidence before the Tribunal runs contrary to the contents of the First



Information Report, the evidence recorded before the Tribunal is to be given precedence and due weightage over the contents of the FIR.

15. In view of the settled proposition of law and the evidence available on record, this Court is of the considered opinion that the findings recorded by the learned Tribunal are based upon conjectures and surmises and are not sustainable in the eyes of law. Consequently, the same are hereby set aside.

16. Accordingly, it is held that the appellants/claimants have successfully proved, on the touchstone of preponderance of probabilities, that the accident in question occurred due to rash and negligent driving of the offending vehicle and, thus, they are entitled to compensation in accordance with law.

17. In wake of the above discussion, the finding of learned Tribunal on issue No.1 is hereby set aside.

18. So far as issue No.2 to 4 is concerned, no finding was given by learned Tribunal, therefore, both the appeals are **remanded** to the learned Tribunal for deciding issues No.2 to 4 after permitting both parties to adduce evidence, including examination-in-chief and cross-examination, in accordance with law.

19. Having regard to the fact that the claim petition pertains to an accident of the year 2013, learned Tribunal is directed to make endeavour to decide the matter expeditiously, preferably within a period of two months from the date of appearance of the parties.



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20. The parties are directed to appear before the learned Tribunal on
29.05.2026.

21. The appeal stands disposed of in the above terms.

22. Pending application(s), if any, also stand disposed of.

22.05.2026

Ayub/Sahil

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No