



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-5414-2016 (O&M)

Date of decision: 14.01.2026

Vidya & Another

...Appellant(s)

Vs.

Gurcharan Singh & Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Munish Kumar Garg, Advocate
Mr. Tanuj Goyal Tohana, Advocate
for the appellants.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants against the dismissal of their claim petition by the learned MACT, Rohtak (hereinafter 'the Tribunal'), vide Award dated 23.05.2016 passed in MACT Petition No.56 dated 29.01.2016 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The two claimants are the parents of deceased Neeraj, who was 23 years old at the time of accident.

2. The case as pleaded by the appellants in the Claim Petition before the Tribunal as recorded in para 3 of the Award is as follows: -

"3. The petitioners have stated that Nishant, brother of deceased Neeraj lodged FIR bearing no. 0681 dated 04.12.2015 Ex. P6 to the effect that they are three brothers. He is the eldest. Neeraj is younger to him and Nitish is his youngest brother. He is having a mechanic shop in front of Anaj Mandi, Sampla. All the three brothers work there as mechanics. On 04.12.2015 at about 12.00 Noon, his brother Neeraj was going from the shop towards Main Bazar Sampla for some urgent work on his motor cycle bearing no. DL-4SAZ-2098. When he



reached in front of Hanuman Mandir, Sampla, then a truck bearing no. PB-11AV-6573 driven in a rash and negligent manner hit his brother Neeraj motor cycle. On account of aforesaid accident, multiple injuries were sustained by Neeraj who later on succumbed to the injuries sustained by him in the accident. The petitioners have prayed that respondents who are driver-cum-owner and insurer of the offending Truck are jointly and severally liable to pay compensation of Rs. 50 lakhs for causing death of Neeraj in motor vehicle accident."

3. It was further averred that the deceased was doing Motor Mechanic work and earning Rs.25,000/- per month.

4. The learned Tribunal upon appraisal of the pleadings as well as oral and documentary evidence led before it, had concluded that the appellants had *"failed to prove that the above accident took place due to the rash and negligent driving of the offending Truck bearing no. PB-11AV-6573 by the respondent no. 1..."*. Accordingly, the appellants were held not entitled for any compensation and claim petition was dismissed.

5. It is inter alia submitted by learned counsel for the appellants that the learned Tribunal was in error in dismissing the Claim Petition of the appellants as the Id. Tribunal has failed to consider the testimony of PW2 and PW3 which duly proves that the accident was caused by offending Truck which was driven in a rash and negligent manner by the respondent no. 1.

6. It is further submitted that the Id. Tribunal has also failed to consider that the charge sheet Ex.P2 which was filed by the police after investigation, has concluded that the above accident took place due to the



rash and negligent driving of the offending truck by the respondent no. 1 but the Id. Tribunal gave unnecessary weightage to the evidence which was led by the respondent and wrongly dismissed the claim petition.

7. The Id. Tribunal has also not considered the fact that the deceased and his two brothers having a mechanic shop in front of Anaj Mandi, Sampla and deceased was earning some of Rs. 25,000/- per month. The Id. Tribunal also neglected this fact that the deceased on the same date brought to PGIMS, Rohtak but Neeraj died due to his multiple grievous injuries sustained in accident. But the Id. Tribunal did not appreciate all these facts and wrongly dismissed the claim petition.

8. It is accordingly prayed that the present appeal be allowed, and the impugned Award be set aside.

9. No other argument is raised on behalf of the appellants. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the appellants.

10. Brother of the deceased, Nishant had registered FIR No.681 dated 04.12.2015 (Ex.P6) against an unknown vehicle and unknown person. Complainant Nishant had appeared as PW2 before the learned Tribunal and had admitted that in the FIR, number of the offending vehicle has not been mentioned. PW2 has admitted in his testimony that he had not seen the accident in question and that he is not eyewitness to the accident. However, on 04.01.2016 i.e. almost one month after the accident, complainant

Nishant had made a Supplementary Statement before the Police disclosing



the details of the offending vehicle as well as respondent no.1. It was asserted by Nishant that till 04.01.2016, they were not aware of the number of the offending vehicle. However, to explain the source of the information, PW2 has stated that on 04.01.2016 at about 7:30 am when he was in his shop, two Sikh men, one by the name of Gurcharan Singh son of Dayal Singh/respondent No.1/owner and driver of the offending truck, had come to his shop and confessed to causing the above-said accident dated 04.12.2015. Respondent No.1 is alleged to have stated that the offending truck had collided with the motorcycle being driven by the deceased. However, due to fear, respondent No.1 had run away from the spot; and had come back to PW2 on 04.01.2016 upon hearing that the driver of the said motorcycle had expired.

11. The said story put forth by the complainant does not inspire the confidence of this Court. It is to be noted that although respondent No.1 is alleged to have admitted/confessed to causing the accident before PW2, however, in his written statement before the learned Tribunal, there is no such admission. Respondent No.1 in his written statement has totally denied the accident.

12. Even the testimony of PW3 Nitish, another brother of the deceased, is unreliable. PW3 has also admitted in his cross-examination that FIR was registered against unknown vehicle. PW3 has also stated that he could not disclose the number of the offending vehicle in the Hospital due to being mentally disturbed because of the accident. However, PW3



has stated that after some time, he had remembered the registration number of the offending vehicle and had disclosed the same to the Police on 04.12.2015 itself by way of statement under Section 161 Cr.P.C. (Mark B). Thus, the statements of the two brothers of the deceased are totally at variance. Statement of PW3 is not believable as, from the Chargesheet (Ex.P2), it is clear that Police was also unaware of the number of the offending vehicle till 04.01.2016. It has also come on record that respondent No.1 was arrested by the Police only on 04.01.2016.

13. It was on the basis of all these discrepancies in the case put forth by the claimants that the learned Tribunal had held that the claimants had been unable to prove that the accident in question had been caused due to the rash and negligent driving of the offending vehicle by respondent No.1 and had consequentially dismissed the Claim Petition.

14. Most importantly, the entire issue is laid to rest from the fact that vide judgment dated 03.01.2017 rendered by the learned Judicial Magistrate, 1st Class, Rohtak, the respondent No.1 has been acquitted in FIR no.681 dated 04.12.2015 registered under Sections 279 and 304-A IPC at Police Station Sampla, Rohtak; on the ground that Nishant/complainant PW2 has been declared hostile. Para 9 of the said judgment dated 03.01.2017 reads as follows:-

“9. Though, the prosecution has examined complainant Nishant to bring home the guilt of the accused but he was declared hostile as he has not supported the case of the



prosecution. He was even cross- examined by learned Public Prosecutor but even then nothing incriminating against the accused and favourable to the prosecution could be extracted from his testimony. He was the material witness of the prosecution. Instead of supporting the prosecution version, he has shattered it. The possibility of compromise between the complainant and the accused outside the court cannot be ruled out. But this Court is not to delve into the surmises and conjectures but has to decide the case on the basis of evidence available on file.”

15. A bare reading of the above facts shows that the claimant side has turned turtle on its previous statement. It is to be appreciated that the present claim petition was filed by the claimants with the positive averments that it has been admitted by respondent no.1 that the accident in question had been caused due to the rash and negligent driving of the offending vehicle by respondent no.1. However, in the criminal trial against respondent no.1/Driver, the complainant, Nishant, had taken a diametrically opposite stand. Thus, respondent no.1 could not be connected with the accident in question and was accordingly acquitted. This Court cannot be a deaf-mute spectator to the two contradictory versions given by the claimant side. No doubt, proceedings under the Act have to be decided on the preponderance of probabilities. However, this Court cannot shut its eyes in an ostrich like manner, to the starkly diametrically opposite stance taken by the claimants' side in the criminal trial. Thus, no credence can be attributed to the subsequent



statements made by the claimant side before the learned Tribunal. Therefore, it cannot be said that the accident in question was caused due to the rash and negligent driving of the offending vehicle by respondent No.1; as the same would be contrary to the own statements made by the claimant side. It would therefore appear that the claimant had deposed falsely before the Tribunal only to get the compensation. In such a situation, I find no error in the impugned Award.

16. I find support in my view from a judgment of this Court in **“United India Insurance Company Limited Vs. Kamla Devi & Others” (P&H) : Law Finder Doc Id # 251230** wherein it has been held that:

"5. It should still have been possible for the Tribunal to take a decision uninfluenced by any decision that may have come before the criminal court. The several decisions which have come about on this issue are to the effect that a judgment in a criminal court is not binding on the Tribunal; the non-filing of a FIR is not material; even the fact of involvement of the vehicle as found by the criminal court is not binding. While the Tribunal is competent to assess the evidence which is brought before it and take an independent decision, then the point that has to be seen is whether there was any evidence worth its name before the Tribunal to come a finding that the particular vehicle was involved in the accident. It can be either that the version of Sitar Mohd. cannot be relied for he has contradicted himself wholesale with the version given before the criminal court or looked for other evidence which was placed before the Court. Alternatively if any explanation had been given by the witness as to why he deposed falsehood



before the criminal court, even such an explanation could have been accepted to enter a finding that the accident took place only involving the particular insured's vehicle. In this case, no explanation has been given by the witness as to why he stated before the criminal court that he did not know which vehicle was involved in the accident. He would, on the other hand, defy that he ever made any such statement before the criminal court, necessitating the statement made before the criminal court to be exhibited for contradiction before the Tribunal. It must be remembered a statement in criminal court case by a witness is also on oath. If he was uttering falsehood, he was liable for perjury. If there was contradiction between the version elicited before the Tribunal to the statement made before the criminal court then such a witness will be unworthy of acceptance. The Tribunal could have simply rejected the whole evidence. If it was going to pick out one line from chief examination to say that the insured's vehicle was involved in the accident, the Tribunal was doing something which is not a judicial function but a travesty of justice."''

17. The above said view has been reiterated by this Court in **“Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others”** FAO-2231-2014 decided on 03.12.2019, wherein it is held as under:-

*“(6) This Court cannot loose sight of the judgment rendered by this Court in the case of **United India Insurance Company Limited versus Kamla Devi and others**, wherein it was specifically held that in case an eye witness gives totally different version before the Court conducting trial in criminal case from*



the statement made by the said eye witness before the Tribunal, the testimony of such a witness is unworthy of being accepted and the evidence should be simply rejected. In fact, the learned Single Bench came down heavily on such witness and held that the said witness is also liable for perjury.”

18. I am in agreement with the abovesaid view taken by my worthy predecessors that the claimant side is liable for perjury for making contradictory statements before two Courts of Law.
19. Learned counsel for the appellants has been unable to dispute the abovesaid factual and legal position.
20. In view of the above, no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed**.
21. Pending application(s) if any also stand(s) disposed of.

14.01.2026
Sunena

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No