



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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FAO-4404-2024(O&M)
Date of decision: 30.04.2026

Renu Bala & Another

...Appellant(s)

Vs.

Harpreet Singh @ Manga & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ashok Kumar Khunger, Advocate
for the appellants.

NIDHI GUPTA, J.

CM-16208-CII-2024

This is an application under Section 5 of Limitation Act for condonation of delay of 46 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of the appellant No.2, the same is allowed subject to all just exceptions and delay of 46 days in filing the appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.3,32,650/- awarded by the Motor Accident Claims Tribunal, Fazilka (hereinafter 'the learned Tribunal') vide Award dated 06.04.2024 passed in MACP/6 dated 17.01.2023 filed under Sections 166 and 140 of Motor Vehicles Act (hereinafter "the Act"). The 2



claimants are the 33-year-old mother and 29-year-old father of deceased Sagar @ Jashan, who was 7 years old at time of accident.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the deceased Sagar @ Jashan had died due to the injuries suffered by him in a motor vehicular accident that took place on 25.10.2022 due to the rash and negligent driving of Ghorra Trola bearing registration No.PB-05-AP-8600 (hereinafter “the offending vehicle”) being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. The said compensation has been awarded along with interest @ 7.5% per annum. Respondent No.3/Insurance Company was directed to indemnify the driver and owner of the offending vehicle. It may further be pointed out that the learned Tribunal upon appraisal of evidence on record had held the present to be a case of contributory negligence as four persons were travelling on two-wheeler and the deceased child was sitting on the fuel tank. As such, the appellant no.2 who was driving the motorcycle on which four persons were riding, including the deceased child who was sitting on the fuel tank, was held liable for 30% contributory negligence.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that the appellants have successfully proved that death of their son was caused due to the rash and negligent driving of the offending vehicle by respondent No.1. Yet the learned Tribunal has



awarded very meagre compensation. It is submitted that the appellants have proved their claim as claimant No.1/mother of the deceased has herself stepped into the witness box as CW1 and proved the rash and negligent driving of the offending vehicle by the respondent No.1. Claimant no.1 had also registered FIR against respondent no.1. It is accordingly prayed that the present appeal be allowed and the impugned Award be modified/enhanced.

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

5. The pleaded case of the appellants before the learned Tribunal as recorded in Para 2 of the Award is that:-

“2. It has been averred that on the fateful day of 25.10.2022 at about 12.30 pm, Renu Bala wife of Arvind Kumar (mother of deceased), Arvind Kumar (father of deceased), Anita Devi (grandmother of deceased) and Sagar @ Jashan (deceased) were going to Abohar on their motor cycle make TVS Star City bearing registration no. PB 22E 6917, which was being driven by Arvind Kumar and Jashan was sitting in front of Arvind Kumar and Anita Devi and Renu Bala were the pillion riders. When they were going on main Fazilka-Abohar road, one Ghorra Trola bearing R.C. No. PB 05AP 8600 being driven by unknown driver was going in front of their motorcycle. When they reached near Noni Dhaba near Abohar, then all of a sudden driver of said trola, without giving any signal and without any reason applied the brakes of trola, due to which, motor cycle of Arvind Kumar hit



with the back side of the truck. Due to this accident, Renu Bala, Arvind Kumar, Anita Devi and Sagar @ Jashan received serious injuries. Thereafter, Surjit Kumar (uncle of Arvind Kumar) came at the spot and after arranging for a conveyance, got them admitted in Govt. Hospital, Abohar, where Renu Bala was provided treatment, but after getting first aid, rest of the injured were taken to Shri Amba Hospital, Sri Ganganagar, where Sagar @ Jashan died on 25.10.2022 at about 3.50 pm. Thereafter, on the statement of Renu Bala, an FIR no. 79 dated 25.10.2022 under sections 279, 337, 338, 427 IPC was registered at police station Sadar, Abohar. After that, on the statement of Surjit Kumar son of Chuni Lal resident of village Burj Muhar Tehsil Abohar, name of respondent no. 1 was nominated as driver of offending vehicle no. PB 05 AP 8600 vide rapat no. 27 dated 27.10.2022. This accident took place due to applying sudden brakes by respondent no. 1. Had respondent no. 1 been cautious, the accident would have been avoided. Thus, the respondents are liable to pay compensation to the claimants and the claimants are entitled for compensation from respondents on account of death of deceased Jashan @ Sagar in this accident as respondents have caused an irreparable loss to claimants by causing death of deceased in rash and negligent manner. The claimants had huge love and affection for the deceased and death of deceased has left the claimants in great mental and physical shock. In the last, it has been prayed that compensation to the tune of Rs. 1,00,00,000/- along with interest @ 12% per annum from the date of filing of present claim application till its realization under section 166 of Motor Vehicle Act and Rs. 50,000/- under section 140 of Motor Vehicle Act being statutory



and being no fault liability to the claimant and Rs. 50,000/- incurred on the last rites i.e. bhog ceremony of deceased Jashan @ Sagar be granted to the claimants, in the interest of justice.”

6. To prove their case, the claimant No.1/mother of the deceased has appeared before the learned Tribunal as CW1 and has tendered her duly sworn affidavit (Ex.CW1/A) wherein she has deposed regarding the aforesaid manner of the accident and has further deposed that the accident was witnessed by her. Evidence of claimant No.1 has been recorded by the learned Tribunal in Paras 10 and 11 of the impugned Award as follows:-

“10... ..claimant no. 1 Renu Bala herself stepped into witness box as C1 and has tendered her duly sworn affidavit Ex. CW1/A, wherein, she has deposed regarding the manner of accident and has further deposed that the accident was witnessed by her. She further deposed that FIR no. 79 dated 25.10.2022 Ex. C1 regarding this accident was registered on her statement. She further deposed that the accident took place due to rash and negligent driving of offending vehicle no. PB 05 AP 8600 by respondent no. 1. She also tendered copy of FIR Ex. C1... .. XXX XXX XXX

11... ..but this fact has been admitted by CW1 Renu Bala during her cross-examination that at the time of accident, she, her husband, her mother-in-law and their child all the four persons were traveling on a motor cycle and her child was sitting on the fuel tank of the motorcycle, though she denied that all of a sudden, their child stood up and her husband could not see the road and the accident occurred. Be that as it may, the occurrence of accident is an admitted fact and it has also



come in the testimony of CW1 Renu Bala that four persons were traveling on a two wheeler i.e. motor cycle, which is strictly against the Traffic Rules and as such, it is a clear cut case of contributory negligence on the part of father of the deceased while driving his motor cycle... ..”.

7. Thus, on account of the testimony of CW1, issue No.1 was decided in favour of the appellants, and they were held entitled to compensation.

8. To calculate the quantum of compensation, Age of the deceased was determined to be 7 years at the time of accident, on the basis of his Post-Mortem Report (Ex.C9) as also on the basis of his Aadhaar Card (Mark A) wherein his date of birth is mentioned as 07.12.2015. Accordingly, the learned Tribunal had assessed notional income of the deceased as Rs.15,000/- per year. I find no error in the same.

9. Learned Tribunal had further applied multiplier of 18. However, as per law laid down by the Hon’ble Supreme Court in **Lata Wadhwa v. State of Bihar (2001) 8 SCC 197**, and **“Sarla Verma Vs. Delhi Transport Corporation” (2009) AIR (SC) 3104 Law Finder Doc ID # 188882**, for the deceased child between ages of 0-15, multiplier of 15 is to be applied. Therefore, compensation in excess of what is admissible to the claimants as per law has already been granted to them. Loss of dependency comes to be Rs.2,70,000/-. 30% was deducted towards contributory negligence; thereby calculating total dependency to be Rs.1,89,000/-.



10. The learned Tribunal had further awarded Rs.18,150/- for funeral expenses; Rs.18,150/- for loss of estate; Rs.44,000/- to each of the 2 claimants by way of loss of consortium; and Rs.10,550/- for medical expenses; thereby granting total compensation of Rs.3,32,650/-.

11. It may also be pointed out that as noted above, in respect of the accident dated 25.10.2022, FIR No.79 dated 25.10.2022 was registered against respondent no.1 under Sections 304-A, 279, 337, 338 and 427 IPC at Police Station Sadar Abohar on the basis of statement made by claimant No.1. However, in the above-said FIR, respondent No.1 has been acquitted by the learned Judicial Magistrate, First Class, Abohar, vide judgment dated 16.01.2025 as claimant No.1/complainant/mother of the deceased while appearing in the criminal trial as PW1 has turned hostile.

12. Claimant No.2 had also appeared before the learned JMJC as PW3 and he has also turned hostile. Relevant findings returned by learned Judicial Magistrate are as follows:-

“10. Prosecution examined firstly PW1 Renu Bala, who deposed that she was a house wife and on the day of occurrence she along with her husband, her mother in law and her son were going to the Abohar from their house on the motor-cycle of her husband, when they reached near Noni da dhaba on Abohar road and some unknown vehicle being driven by unknown person caused accident with the motorcycle of her husband due to which she, her mother in law, her husband and her son got injured and her uncle got admitted them to the Civil



Hospital Abohar by arranging private vehicle and the doctor referred them to Sri Ganganagar due to serious injuries and her son died due to such injuries and she does not know the accused driver nor know about his offending vehicle nor she ever identified him and she never got recorded her statement before police.

At the request of Learned APP for the State, she was declared hostile and she was allowed to be cross-examined by learned APP for the State but nothing material could be extracted from her cross-examination which could be of any help to the prosecution. In her cross-examination, witness denied her statement portion A to B on Mark A recorded to police but she identified her signatures at point A and signatures of brother in law of the witness at point B but the witness told that her said signatures and signatures of her brother in law were obtained by the police on blank papers.

XXX XXX XXX

12. Thereafter prosecution examined PW3 Arvind Kumar, who deposed that he was doing labor work and on the day of occurrence he along with his son, his wife and his mother were going to the Abohar from their house on his motor-cycle bearing PB-22E-6917, when they reached near Noni da dhaba on Abohar road then some unknown vehicle being driven by unknown person caused accident with his motor cycle due to which he, his wife, his son and his mother got injured and his uncle got admitted them to the Civil Hospital Abohar by arranging private vehicle and the doctor referred them to Sri Ganganagar due to serious injuries and his son died due to such injuries at Sri Ganganagar and he does not know the



accused driver nor know about his offending vehicle nor he ever identified him and he never got recorded his statement before police.

At the request of Learned APP for the State, he was declared hostile and he was allowed to be cross-examined by learned APP for the State but nothing material could be extracted from his cross-examination which could be of any help to the prosecution. In his cross-examination, witness denied his statement portion A to B on Mark C recorded to police but he denies the same and he told that police never recorded the such statement."

13. A bare reading of the above facts shows that the claimant side has turned turtle on its previous statement. 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 contrary statements made by the claimant side before the learned Tribunal. It would therefore appear that the claimants had deposed falsely before the Tribunal only to get the compensation. In such a situation, reference may be made to 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."

14. 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.”

15. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings. Thus, no ground is made out for enhancement of compensation.

16. In view of the above, present appeal stands **dismissed**.

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

30.04.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No