



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-5089-2018 (O&M)
Date of decision: 19.01.2026

Bimla Devi & Another

...Appellant(s)

Vs.

Praveen @ Dilla & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Yash Goyal, Advocate for
Mr. Tanmoy Gupta, 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, Palwal (hereinafter 'the Tribunal'), vide Award dated 02.04.2018 passed in MACP Case No.29 dated 11.04.2017 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The two claimants are the 43-year-old widow and 25-year-old son of deceased Virender, who was 45 years old at the time of accident.

2. It was the pleaded case of the appellants before the learned Tribunal that deceased Virender had died due to the injuries suffered by him in a motor vehicle accident that took place on 09.11.2016 due to the rash and negligent driving of the Car bearing registration No.HR-14M-7428



(hereinafter referred to as the “offending vehicle”) being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. However, the learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties had concluded that the appellants were unable to prove that the accident in question *“had occurred due to rash and negligent driving of the vehicle bearing registration no.HR-14M-7428 and the death of Virender son of Dharampal had caused due to involvement of the vehicle in question...”*. Accordingly, the Claim Petition of the appellants came to be dismissed.

3. It is inter alia submitted by learned counsel for the appellants that the learned Tribunal was in patent error in dismissing the Claim Petition of the appellants on account of the fact that FIR No.465 dated 10.11.2016 had been registered against respondent no.1 in respect of the accident dated 9.11.2016, under Sections 279, 337 and 304-A IPC at Police Station Rajender Park, Gurgaon. The said FIR was registered on the basis of statement made by Balwant, who was eyewitness to the accident. It is further submitted that PW2 Sanjay Kumar, Ahlmad had also given evidence that in the said FIR, the respondent No.1 had been charge-sheeted for commission of offences punishable under Sections 279, 337 and 304-A IPC on 29.03.2017. Moreover, the complainant-eyewitness Balwant had brought broken number plate of the offending vehicle on 24.11.2016 to the Investigating Officer; and the two broken pieces of the number plate were duly identified by the Investigating Officer Dharmender through RTI. It is argued that therefore, there was no



reason whatsoever to dismiss the Claim Petition. However, the learned Tribunal has brushed aside all the evidence brought on record by the appellants and dismissed the Claim Petition vide the impugned Award, which is based on surmises and conjectures. It is accordingly prayed that the present appeal be allowed and the impugned Award be set aside and compensation be awarded to the appellants.

4. 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.

5. FIR No.465 dated 10.11.2016 was registered on the basis of statement made by one Balwant, alleged eyewitness to the accident in question. However, it is to be noted that in the first instance, the said FIR was registered against unknown person and unknown vehicle. It is only subsequently that Balwant had produced broken number plate which was allegedly of the offending vehicle. However, even the same is not sufficient to establish the involvement of the offending vehicle in view of the fact that the Investigating officer Dharmender while appearing as PW3 had stated that he had visited the site of accident on 10.11.2016 i.e. the day after the accident, and had not recovered anything. The findings of the learned Tribunal in this regard, are in Para 17 of the impugned Award, relevant extract of which is as follows:-

“17.....On a perusal of testimony of PW-3 Head Constable Dharmender, it is revealed that after registration of FIR, he had



proceeded to the place of occurrence and had prepared rough site plan of the place of accident on 10.11.2016. This witness stated that on 24.11.2016, the complainant Balwant had produced a number plate and a part of fuse cover on the basis of which the respondent-accused Praveen was arrested. During his cross-examination, it was admitted by him that nothing was recovered by him from the place of occurrence. During cross-examination, he admitted that none had given any statement about eye-witnessing the accident and noting down the registration number of the vehicle in question as the one who had caused the accident. It is revealed from his testimony that on the basis of some incomplete number alleged to have been written on a broken number-plate produced by the complainant Balwant, he had moved an application before the Registering Authority, Jhajjar and came to know about the name of owner of this vehicle. In his examination-in-chief; he did not mention as to which number was written on the broken number plate which was produced by the complainant Balwant. It was also not stated by him during his cross-examination that it was the registration number of the vehicle in question which was mentioned on the broken number-plate. No plausible explanation has been given by this witness to show as to how he arrived at the conclusion that it was the vehicle in question which was involved in the accident in question. He also did not explain as to what application was moved by him before the registration authority, Jhajjar. It is clear from his testimony that he himself had not done any investigation on the point as to by which particular vehicle the accident had occurred. His testimony that the complainant Balwant had produced some number plate is also not inspiring,



because the said Balwant had not appeared into the witness box to explain as to from where he had recovered or found the broken number plate and as to which particular number was written over the same. Therefore, simply because the respondent no.1 is facing trial in the criminal case, the same is not sufficient to infer that the accident had been caused by driving the vehicle in question and by no other vehicle and further that he was the driver of that vehicle. Even otherwise, no evidence was produced on record by the claimants to prove that the vehicle in question even if presumed to be involved in the accident was driven rashly and negligently and injuries resulting into the death of the victim were caused due to that."

6. Moreover, claimants had only produced photocopy of the Recovery Memo as Ex.P9. As such, the document being only of photocopy was not admissible in evidence. In any event, even if the said document is taken into consideration, it was not sufficient to prove the involvement of the offending vehicle as from the broken two pieces allegedly produced by Balwant, no conclusion could be drawn that the same were of the alleged offending vehicle; especially in view of the fact that the Investigating Officer had also visited the spot on 10.11.2016 and has stated that nothing was recovered by him from the spot of accident. Most importantly, the complainant Balwant, who had produced the broken number plate, has not been examined by the appellants/claimants before the learned Tribunal.

7. Furthermore, it has not been denied by learned counsel for the appellants that in the aforesaid FIR No.465 dated 10.11.2016, the



respondent No.1 has been acquitted by the learned Judicial Magistrate, 1st Class, Gurugram vide judgment dated 31.01.2023; on the basis of statement made by complainant Balwant who had appeared as PW7 in the criminal trial. The learned trial Court duly took note of the fact that though in the complaint, the complainant Balwant had mentioned that respondent No.1 was driving the offending vehicle in a rash and negligent manner, however, during his evidence, he did not depose to this effect. Rather, Balwant has stated that he did not witness the alleged accident. The finding of the Id. JMIC in Para 14 of the judgment dated 31.01.2023 is as follows:-

“14. Now, it is imperative to comment upon the testimony of complainant who appeared as PW-7 in the instant case. To begin with, though the complainant has categorically mentioned the factum of rash and negligent driving of offending vehicle by the accused in the complaint Ex.PA, however, in his examination-in-chief, he has only deposed that the offending vehicle was driven by accused on a high speed with negligence. He did not depose that the offending vehicle was being driven in a rash and negligent manner by the accused at the time of accident being the pre-requisite ingredient to prove the offence under Section 304-A IPC. Apart that, the complainant has mentioned in complaint Ex.PA that the accident took place in his presence and when the offending vehicle hit the deceased, he ran away to handle the deceased. To the contrary, in his cross-examination, he has stated that he went inside the gate after leaving Birender on the road and he came outside once he heard the noise of accident. He has even gone to the extent of saying that he did not witness the alleged



accident. He further deposed that he cannot say whether the offending vehicle was jeep, truck or some other vehicle. The aforesaid testimony of complainant in examination-in-chief as well as in cross-examination as mentioned above is completely contrary to the contents mentioned by him in his complaint Ex.PA. Also, the complainant PW7 has categorically mentioned in his complaint Ex.PA as well as in his examination-in-chief that on account of being night/dark, he was not able to note down the registration number of the offending vehicle what to talk of identifying the accused driving the offending vehicle. In this regard, no satisfactory explanation has been given by the learned APP as to how come the investigating agency came to the conclusion that the accused who was driving the offending vehicle at the time of alleged accident. The aforesaid testimony of complainant is quite suggestive of the fact that after the arrest of accused in the present FIR, the investigating agency did not conduct the test identification parade of the accused. Had the investigating agency conducted the test identification parade of accused persons from the complainant, the complainant could have deposed against the accused and her identity would have been established on record but it is not so in the appearing circumstances. In this manner, the stand of prosecution is nothing but seems to be an empty formality and booked the accused unnecessarily.”

8. Accordingly, in view of the above stand taken by the complainant Balwant in the criminal trial, respondent no.1 came to be acquitted. To prove the rash and negligent driving of respondent No.1 the claimant has solely relied upon evidence of Balwant. However, clearly, the



said evidence of Balwant produced by the appellant for grant of compensation was not reliable, as the same has been denied by the complainant himself. Thus, claim petition was rightly dismissed by the learned tribunal.

9. 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, deny 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."

10. 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; Law Finder Doc ID # 1639034, wherein it is held as under:-

*"(6) This Court cannot lose 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.”

- 11. Learned counsel for the appellants has been unable to dispute the abovesaid factual and legal position.
- 12. In view of the above, no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed**.
- 13. Pending application(s) if any also stand(s) disposed of.

19.01.2026
Sunena

(NIDHI GUPTA)
JUDGE

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