



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-7406-2018 (O&M)

Date of decision: 09.02.2026

Smt. Mona Devi & Others

...Appellant(s)

Vs.

Surjeet & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Dheeraj Narula, Advocate
for the appellants.

Mr. Kuljit Singh, Advocate
for respondents No.1 and 2.

Mr. G.S. Sarao, Advocate
Mr. Vishal Aggarwal, Advocate
for respondent No.3.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants against the dismissal of their claim petition by the learned MACT, Sirsa (hereinafter 'the Tribunal'), vide Award dated 13.07.2018 passed in MACP Case No.37 dated 27.02.2017 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 6 claimants are the widow, three minor children, and parents of deceased Ranjit Singh.

2. The pleaded case of the claimants before the learned Tribunal as recorded in paras 2 and 3 of the impugned Award is that: -



"2. Brief facts of the case are that on 11.11.2016 at about 8-20 P.M. Ranjit Singh son of Bagrawat (since deceased) was going to village Bhuratwala, District Sirsa from M/s Sihag Motors and Parts Agency, Sirsa Road Ellenabad to village Bhuratwala on his motorcycle bearing registration No.HR-44H-2424. Dana Ram son of Mani Ram and Anand son of Ishwar Singh were also following him on their motorcycle No.HR-44D-3837. When the deceased reached near Brick Kiln of village Poharka, a tractor bearing registration No.HR-24W-1907 was going ahead of the motorcycle of Ranjit Singh. The said tractor was being driven by the respondent no.1 in rash and negligent manner and suddenly applied brakes on account of which the motorcycle of Ranjit Singh struck into the trolley of the said tractor as a result of which Ranjit Singh had fallen on the road and received grievous injuries on his person. The respondent no.1 fled away from the spot after causing the accident. Ranjit Singh was taken to General Hospital, Sirsa where he was declared dead and postmortem was got conducted on 12.11.2016. Matter was reported to the police and an FIR no.306 dated 12.11.2016 was registered at P.S.Ellenabad against the respondent no.1 on the statement of Dana Ram s/o Mani Ram.

3. The petitioners further submitted that the deceased was aged about 36 years at the time of death in the accident. He was hale and hearty and was not suffering from any disease or infirmities. He was a trained mechanic and was employed at M/s Sihag Motor and Parts, Sirsa Road Ellenabad and was earning ₹ 25,000/- per month. The petitioners were residing with the deceased and they were fully dependent upon the income of the deceased. The petitioners were under great shock due to untimely death of Ranjit Singh and have lost love and affection.



The petitioners submitted that the accident was caused by the respondent no.1 by driving the offending vehicle in rash and negligent manner and the respondents no.1 to3, being driver, owner and insured of the offending vehicle are liable to pay the compensation jointly and severally.”

3. The learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties had concluded that the appellants *“have failed to prove that the accident in question was caused by respondent no.1 while driving the tractor in question belonging to respondent no.2, as alleged in the petition.”* Accordingly, the Claim Petition of the appellants came to be dismissed.

4. 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 by holding that the appellants had failed to prove that the offending vehicle was being driven rashly and negligently by respondent No.1. It was further observed by the learned Tribunal that FIR No.306 dated 12.11.2016 under Sections 279, 304-A, 427 IPC at Police Station Ellenabad had been registered against an unknown person and an unknown vehicle. Learned counsel contends that the observation of the learned Tribunal to the effect that FIR was registered against an unknown vehicle, is incorrect as the offending vehicle was duly described as ‘tractor’ in the FIR. It is submitted that the accident had taken place on 11.11.2016 at about 8:20 pm and therefore, being nighttime, it was difficult to see the registration number of



the offending vehicle. Therefore, the registration number of the offending vehicle was not mentioned. Moreover, learned Tribunal has ignored the fact that respondent No.1 was arrested in regard to the accident in question. Hence, the findings of the learned Tribunal deserve to be set aside.

5. Ld. Counsel further submits that in dismissing the claim petition, the Id. MACT has ignored the evidence of eyewitnesses Dana Ram and Anand Kumar who appeared as PW2 and PW3 respectively and were following the deceased on their separate motorcycle and after the accident they brought the deceased to the General Hospital, Sirsa as is clear from the post mortem report Ex.P1 and both the persons were shown to identify the body of the deceased. Thus, presence of both the witnesses was very much proved from the postmortem report.

6. Ld. Counsel further contends that the involvement of the offending tractor in the accident in question is proved from the fact that it is the own suggestion of the counsel for the Insurance Company that it is incorrect to suggest that deceased was driving the motorcycle in a high speed and struck the same in the trolley from the backside. Thus, the finding of the Ld. MACT in observing that the offending vehicle was not involved in the accident is itself wrong and deserves to be set aside.

7. In support of his contentions, learned counsel relies upon judgment of Hon'ble Supreme Court in **Balu Sudam Khalde v. State of Maharashtra (SC) : Law Finder Doc ID # 2175498**, wherein it is held that:-



“Criminal law – Suggestions made to witness by defence counsel in cross examination form part of evidence and can be relied upon by Court along with other evidence on record to determine guilt of accused.”

8. It is accordingly prayed that the impugned Award be set aside.
9. Per contra, learned counsel for the respondent No.3 opposes the submissions advanced on behalf of the appellants and submit that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.
10. No other argument is raised on behalf of the parties. 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.
11. It was the pleaded case of the appellants that at the time of accident, eyewitness and complainant namely Dana Ram PW2 was following the deceased on separate motorcycle. It is understandable that the accident having taken place on winter night on 11.11.2016 at 8:30 pm, the registration number of the offending vehicle would not be visible to the complainant. However, it is not clear from the record as to how the identity of respondent No.1 as Driver of the offending tractor came to be established. As per the Challan (Ex.P3), respondent No.1 was arrested on 31.01.2017. However, it is nowhere mentioned in the Challan as to how the Police came to know the name and whereabouts of respondent No.1.
12. Another inexplicable anomaly in the case is that eyewitness-complainant Dana Ram in his cross-examination as PW2 has admitted that



he had seen respondent No.1 namely Surjit, at the spot. However, respondent No.1 had fled away after the accident. PW2 has further admitted that in the FIR, he has not mentioned the name of the accused nor the tractor number. On a question in the cross-examination that *"Surjit kaa naam aapko kisne bataya tha?"* (Who told you the name of Surjit), to which Dana Ram has replied that *"Driver ko maini apni aankhon se dekha tha vo mauka se bhaag gaya tha jiska naam Surjit hai."* (I saw the driver with my own eyes who ran away from the spot whose name is Surjit). It is incomprehensible that if the complainant had seen respondent No.1 at the spot, then why was his identity not disclosed in the FIR and why was FIR registered against an unknown person.

13. The eyewitness-complainant Dana Ram/PW2 has also admitted in his cross-examination that he was at a distance of 5-6 'Kadam'/feet from the motorcycle of the deceased. PW2 has further admitted that he is unable to give the number, colour of the motorcycle on which he/PW2 was travelling at the time of accident. Dana Ram was also unable to tell whether Anand driver of the said motorcycle was wearing a helmet or not. From these facts, it would appear that PW2 was not present at the spot at the time of accident. Furthermore, admittedly, respondent No.1 and the complainant are residents of the same village. From the record, it also appears that the respondent No.1 himself had surrendered before the Police. All of the above said facts when considered together, indicate collusion between the claimants, complainant, and respondent



No.1. Thus, the learned Tribunal had concluded that although death of deceased Ranjit Singh was caused in roadside accident, however, the claimants had failed to prove that same was caused due to rash and negligent driving of the tractor in question.

14. The contention on behalf of the appellants that involvement of the offending vehicle is established from the own suggestion of learned counsel for the Insurance Company, that the deceased was driving the truck at high speed and struck the offending trolley from behind, is misplaced; as it is undisputed fact on record that the respondent No.1 has been acquitted in the FIR No.306 dated 12.11.2016 by the Sub-Divisional Judicial Magistrate, Ellenabad vide judgment dated 01.08.2018. The respondent No.1 namely Surjit has been acquitted on the ground that the complainant Dana Ram and eyewitness Anand have turned hostile. A copy of the said judgment is handed over in Court by learned counsel for respondent no.3, which is taken on record. It is important to note that in the said judgment of acquittal, the trial Court has categorically recorded that: -

“7. In order to prove its case, prosecution has got examined 6 witnesses, out of which, PW-1 Dana Ram (complainant), PW-2 Jagdish Chander (eyewitness) and PW-6 Anand (eyewitness) are the most important witnesses. However, all of them, when appeared into witness box, though deposed about the accident dated 11.11.2016 yet specifically submitted that accused present in the court is not that person who had committed the accident on that date. PW-3 Shankar Lal deposed that he is friend of accused Surjit and accused never told him about any



accident. PW-4 Randhir (brother of deceased) deposed that after receiving information from Anand regarding the accident of his brother, he reached to General Hospital, Sirsa. PW-5 Sunil Kumar deposed that Surjit is his friend and he took his tractor trolley bearing registration No.HR24-W/1907 for his personal work and apart from that he has no knowledge in this case. Accordingly, all the above said witnesses were declared hostile and despite their cross-examination by learned APP, nothing fruitful to the prosecution could have been unearthed.

8. So, when complainant and eye witnesses are not supporting prosecution case, therefore, this Court is of the considered opinion that prosecution badly failed in establishing the allegations leveled against accused beyond all reasonable doubts and hence, accused is hereby acquitted. His bail bond and surety bond stand discharged. Case property be disposed of as per rules, after expiry of period of appeal. File be consigned after due compliance.”

15. Thus, PW2 Dana Ram complainant and eyewitness has turned hostile in the criminal trial. Admittedly, the claimant side has turned turtle on the case previously presented by it. It is to be appreciated that the present claim petition was filed by the claimants with the positive averments 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, PW2 had positively stated that the accident in question had not been caused by the accused/respondent no.1 herein. 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 contrary 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 appear that the claimant side 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; Law Finder Doc ID # 1639034, 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. The aforesaid judgment **Balu Sudam Khalde** supra relied upon by the learned counsel for the appellant is distinguishable on facts and law.

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.

09.02.2026
Sunena

(NIDHI GUPTA)
JUDGE

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