



FAO-242-2013 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

FAO-242-2013 (O&M)

SHRIRAM GENERAL INSURANCE CO. LTD.**.....Appellant****vs.****KIRAN BALA AND ORS..****.....Respondents****Reserved on:- 24.03.2026****Pronounced on:- 08.05.2026****Uploaded on:- 11.05.2026***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. Sachin Ohri, Advocate
Mr. Sachin Gupta, Advocate
for the appellant-Insurance Company.

Mr. Vijay Lath, Advocate
Mr. Naveen Sharma, Advocate (Moudgil), Advocate
for respondent Nos.1 to 4.

Mr. Ramneek Vasudeva, Advocate
for respondent No.5.

**********SUDEEPTI SHARMA J.**

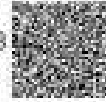
1. The present appeal has been preferred against the award dated 19.07.2012 passed by the learned Motor Accident Claims Tribunal, Rupnagar (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, wherein the appellant-Insurance company was fastened with the liability to pay the compensation of Rs.9,36,000/- to the



claimants along with interest @ 9 % per annum from the date of filing of claim petition till recovery.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 21.5.2011 at about 4-00 P.M. deceased Harjinder Singh was present at the shop of one Krishan Lal son of Piare Lal at Old Bus Stand, Sarsa Nangal as the rear tyre of his motor cycle bearing No.PB-74-1832 was punctured and after parking the motor cycle at the shop of said Krishan Lal he demanded tools from him and when he started changing the tyre, in the meantime a tractor-trolley bearing registration No.PB-12-M-2648 make John Deere 5310 which was being driven by its driver, namely, Mehboob respondent No.1 in a rash and negligent manner came there and struck the same against the motor cycle of Harjinder Singh. In-fact the driver of the tractor- trolley after drinking water from the shop of said Krishan Lal and after crossing the tractor trolley from his wrong side and was going to move ahead then he rolled down the right side and rear tyre of the said tractor- trolley over the motor cyclist who was changing the tyre of his motor cycle. The accident entirely took place due to rash and negligent driving of respondent No.1. The F.I.R. was got registered by above said Krishan Lal against respondent No.1. The motor cyclist Harjinder Singh was of young age and was working as a Supervisor and used to earn more than Rs.15,000/- per month. In addition to this, he was a technical person and was able bodied person. The claimants have no source of income and were dependent upon him. Hence, the claimants have prayed for compensation to the tune of Rs.20 Lacs along with interest @18% per annum from the respondents.



3. Upon notice of the claim petition, respondents therein appeared and contested the claim petition by filing separate written statement denying the factum of accident/compensation.

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

- “1. Whether the death of Harjinder Singh occurred in a motor vehicular accident on 21.5.11 at about 4-00 PM in the area of Bus Stand Sarsa Nangal, Ropar-Nangal road due to rash and negligent driving of Tractor-trolley bearing registration No.PB-12-M-2648 being driven by respondent No.1 in a rash and negligent manner? OPP*
- 2. If issue No.1 is proved whether the claimants being legal heirs of Harjinder Singh are entitled to any compensation? If so from whom and to what amount? OPP*
- 3. Whether the respondent No.1 was not holding any valid and effective DL on the date of the accident? OPR*
- 4. Whether the petition is not maintainable in the present form as alleged? OPR*
- 5. Relief.”*

5. Thereafter, both the parties led their evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants/respondents. However, the appellant/Insurance Company was held liable to pay compensation. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

7. Learned counsel for the appellant–Insurance Company contends as under:-



i. that the learned Tribunal has erred in holding that accident in question took place due to sole rash and negligent driving of the respondent No.5 (driver of the offending vehicle).

ii. that there are discrepancies in the testimony of the alleged eye-witness (PW-2) of the accident, which does not inspire the confidence.

iii. that no other witness was examined by respondents-claimants regarding the rash and negligence of the driver i.e. respondent No.5.

iv. that the investigation officer of the case was also not examined so as to prove how the rash and negligence was attributable to respondent No.5 (driver of offending vehicle). On these premise, he prays that the present appeal be allowed and the impugned award be set aside or suitably modified.

8. *Per contra*, learned counsel for the respondents No.1 to 4/claimants, however, contends that learned Tribunal has rightly decided the issue of rash and negligence. He further contends that compensation awarded by learned Tribunal is on the lower side and they have also filed separate appeal i.e. **FAO-353-2013, titled as ‘Kiran Bala and others Vs. Mehboob and others’** seeking enhancement of compensation. Therefore, he prays for dismissal of the present appeal

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

10. Before proceeding further it is apposite to reproduce the relevant portion of the award. The relevant portion is reproduced as under:-

***“ISSUE NO.1***

10. The onus to prove this issue was placed upon the claimants. In order to prove this issue, the claimants have examined Krishan Lal PW-2 who tendered his duly sworn affidavit Ex.PW2/A in which he has stated that on 21.5.2011 at about 4-00 P.M. deceased Harjinder Singh was present at his shop which was situated at Old Bus Stand, Sarsa Nangal as rear tyre of his motor cycle bearing No.PB-74-1832 was punctured. Said Harjinder Singh parked the motor cycle at his shop and he demanded tools from him and when he started changing the tyre, in the meantime a tractor-trolley bearing registration No.PB-12-M-2648 make John Deere 5310 which was being driven by its driver, namely, Mehboob respondent No.1 in a rash and negligent manner came there and struck the same against the motor cycle of Harjinder Singh. In-fact the driver of the tractor- trolley after drinking water from the shop of said Krishan Lal and after crossing the tractor trolley from his wrong side and was going to move ahead then he rolled down the right side and rear tyre of the said tractor- trolley over the motor cyclist who was changing the tyre of his motor cycle. The accident entirely took place due to rash and negligent driving of respondent No.1. He has proved on record copy of F.I.R. as Ex.P1 which was got registered by him. On the other hand, none from the side of respondents has been examined as a witness in order to deny the accident, nor the respondent No.1 has stepped into the witness box to dispute the accident.

11. The learned counsel for the respondent-Insurance Company has contended that claimants have failed to prove the accident to have occurred due to the rash and negligent driving of the respondent No.1, therefore, issue No.1 cannot be decided in their favour. He has also



contended that during his cross examination PW-2 Krishan Lal could not withstand his testimony in chief examination. He has further contended that even the place of occurrence of accident which in his chief is stated to be in front of his shop, has been changed to the other side of road in his cross examination, which shows that this witness was not present at the spot. On the other hand, learned counsel for the claimants has contended that respondent No.1 has not stepped into the witness box to deny the accident, therefore, there can be no dispute with regard to occurrence of the accident, the testimony of PW-2 Krishan Lal has gone un-rebutted on the record. Moreover, even if this witness has seen the occurrence from a distance of 60 meter that would not reduce his testimony to a waste piece of paper.

12. I have given a thoughtful consideration to the rival contentions raised by learned counsel for both the sides and at the out set, it can be stated that so far as testimony of PW-2 is concerned, the same stands corroborated by Ex.P1, i.e. certified copy of the FIR. He has though stated in his cross examination that his shop is at a distance of 60 meter from the road, yet it would not be of any significance, as the rashness and negligence of a driver can well be witnessed from such small distance, which ultimately resulted into the accident and consequent death of Harjinder Singh. Further, the best witness in this regard could be the respondent No. 1 himself who has not stepped into the witness box and as per law an adverse inference is liable to be drawn against such a party. Even insurance company has not taken any steps to examine him. Thus, the conjoint reading of the FIR Ex-P1 and the testimony of PW-2 would show that the deceased had suffered multiple grievous injuries in the accident caused by the rash and negligent driving of tractor-trolley bearing registration



*No.PB-12-M-2648 which was being driven by respondent No.1 on 21.5.2011 in the area of Old Bus Stand, Sarsa Nangal. The registration of FIR Ex.P1 against respondent No.1 stood un-rebutted on record as respondent No. 1 has failed to show as to why a wrong FIR was registered against him. In fact he is also facing the trial arising out of the said FIR. In case titled as **Girdhari Lal Vs Radhey Shyam and others Vol. CIV—(1993-2) The Punjab Law Reporter Page 109**, it was held by our own Hon'ble High Court that:*

“(ii) Motor Vehicle Act (IV of 1039) Section 110.A-NegligenceDriver was being tried on account of rash and negligent driving—Prima facie safe to conclude that the accident occurred on account of rash and negligent driving of the driver.”

*Further, in case titled as **Sudama Devi and others Versus Kewal Ram and others Vol. CXLIX-PLR(2008-1)**, it has been held that:*

14. “(iii) Motor Vehicles Act, 1988 (59 of 1988) Section166-Negligence-Criminal case was registered against the driver-He could certainly approach the higher police authorities, that he had been falsely implicated, in a criminal case and the accident did not take place, on account of his rash or negligent act- Mere silence, for a long time, in itself is sufficient to prove that he was negligent, in driving the bus, at the relevant time, as a result whereof, the accident took place.”

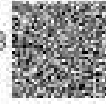
However in the instant case there is nothing on record to show that the respondent No. 1 ever agitated the wrong registration of FIR against him before any higher police authorities. Accordingly, it is held that deceased Harjinder Singh received multiple grievous injuries in a motor vehicle accident caused due to the rash and negligent



driving of the offending tractor-trolley bearing registration No.PB-12-M-2648 being driven by respondent No.1 and ultimately succumbed to the injuries so suffered by him. Accordingly the issue No.1 stands decided in favour of the claimants and against the respondents.

ISSUES NO. 2:

14. In order to prove this issue, claimant No.1 herself has deposed as PW-1 that she is the widow of deceased Harjinder Singh who died in the Motor Vehicle Accident. The claimant No.2 is the minor daughter and claimants No.3 and 4 are father and mother of the deceased respectively. All the claimants were fully dependent upon the income of the deceased. The deceased was of 30 years at the time of his death. He was serving as Supervisor with K.M. Associates (Service Providers to LARSEN & TOUBRO LTD.ECC Div., Godrej Project, Chandigarh) and was getting salary to the tune of Rs.9,958/- per month. He met with an accident on 21.5.2011 in the area of Old Bus Stand, Sarsa Nangal, with a tractortrolley and he died in the said accident. Due to his death, the claimants have suffered great financial loss. Now the claimants have no source of income. The future of the claimants has fallen into dark. The claimants have suffered a great loss of love and affection due to the accident. The claimant No.1 has lost her husband in a young age and the Claimant No.2 has been deprived of love and affection of her father at the tender age. Claimants No.3 and 4 have lost their son in their last age. The claimants have further examined PW-3 Prabhat Kumar, an official of LARSEN & TOUBRO LTD. who has brought the record pertaining to Harjinder Singh deceased. He has stated that deceased was working as a Supervisor with K.M. Associates (Service Providers to LARSEN & TOUBRO LTD.ECC Div., Godrej Project, Chandigarh). He has proved on record copy of muster roll

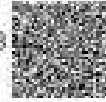


Ex.PX and copy of salary certificate as mark Y. He has brought the original record. The certificate is bearing No.3012 and the same has been issued by their Department on 9.2.2012.

15. Learned counsel for the claimants has contended that since the deceased was 30 years old as recorded in Ex.P2 i.e. copy of the PMR, therefore, a multiplier of 17 is applicable. He has further contended that deceased was earning Rs.9,958/- per month as mentioned in his salary certificate as well as the muster roll , therefore even after deducting 1/3 towards his personal expenses the dependency of the claimants on the earnings of the deceased would come to Rs.13,54,456/-.

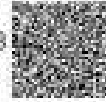
16. On the other hand the learned counsel for the respondents has contended the salary certificate is not duly proved by the claimants on record. Infact no official record has been produced by the PW-3 who was not even authorized to appear in the court on behalf of the company. He has further contended that even as per the muster rolls it is clearly established that the deceased was only a daily wager and was not a permanent employee of the concern and this fact has also been admitted by the PW-3.

17. I have given a thoughtful consideration to the abovesaid submissions and have also gone through the file of the case. Since the relationship of the claimants with the deceased Harjinder Singh is not disputed by the respondents therefore it is held that claimant No. 1 is the widow, claimant No. 2 is minor daughter and claimants No.3 and 4 are father and mother of the deceased respectively. As per salary certificate mark Y, the pay of the deceased for the month of December 2010 was Rs.9,958/- but the accident had taken place in the month of May of 2011 and deceased might have continued to work with the



concern till that period. But no subsequent salary is proved on record. The perusal of the muster roll would show that the deceased has been getting salary ranging between Rs.5000/- to Rs.9,500/- which shows that the deceased was a daily wager. It is well known that the salary of a daily wager depends upon so many factors, attendance being one of the major factor amongst others. Therefore keeping in view the uncertainties of life abound, this Tribunal deems it proper to determine the salary of the deceased to be Rs.7200/- p.m. on the average basis. Therefore, after deducting 1/3rd of his income towards his personal expenses, the annual dependency of the claimants on the income of the deceased would come to Rs.57,600/-. Further taking the age of the deceased into consideration, at the time of accident to be 31 years, as per the copy of PAN Card Ex-P5 a multiplier of 16 would be applicable. Accordingly the compensation amount is worked out at Rs.9,21,600/-. Further a lump sum amount of Rs. 10,000/- is awarded towards loss of consortium to wife, loss of love and affection to the children and parents and a sum of Rs.5000/- is awarded towards last rites expenses and thus the amount is arrived at Rs.9,36,600/- The issue stands decided accordingly.

11. A perusal of record reveals that the learned Tribunal, upon a comprehensive appraisal of the oral as well as documentary evidence available on record, has rightly returned a categorical finding that the accident in question occurred solely on account of the rash and negligent driving of the offending tractor-trolley bearing registration No. PB-12-M-2648 by respondent No.5-driver of the offending vehicle. The said finding is founded upon proper appreciation of the material evidence and settled principles governing adjudication of claim petitions under the Motor Vehicles Act and,



therefore, warrants no interference by this Court in exercise of appellate jurisdiction.

12. The testimony of PW-2-eye witness has been rightly appreciated by the learned Tribunal in its true and proper perspective. Merely because the witness stated during cross-examination that his shop was situated at a distance of approximately 60 meters from the place of occurrence, the same by itself does not render his testimony unreliable or unworthy of credence. The learned Tribunal has correctly observed that the manner in which the offending vehicle was being driven and the occurrence of the accident could very well be witnessed from such distance. More importantly, the ocular version furnished by PW-2 stands duly corroborated by contemporaneous documentary evidence in the shape of FIR (Ex.P1), which came to be registered against respondent No.5 immediately after the occurrence.

13. It is trite law that in proceedings arising out of motor accident claims, minor discrepancies or insignificant inconsistencies in the testimony of witnesses are not to be magnified so as to discredit an otherwise cogent and trustworthy version. The approach of the Court in such matters is required to be pragmatic and not hyper-technical. Unless contradictions go to the root of the matter and materially affect the substratum of the claimants' case, the same cannot be made a ground to discard otherwise reliable evidence. The learned Tribunal has, thus, rightly relied upon the testimony of eye-witness (PW-2).

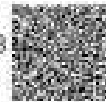
14. The learned Tribunal has further correctly drawn an adverse inference against respondent No.5, who, despite being the driver of the offending vehicle and the best person to explain the circumstances in which



the accident occurred, chose not to step into the witness box. In the absence of any rebuttal from the said respondent, the version put forth by the claimants remained substantially unrebutted. Even the Insurance Company failed to examine the driver in defence. Such deliberate withholding of material evidence clearly justified the drawing of an adverse inference against the respondents in terms of settled principles of evidence.

15. The learned Tribunal has also rightly taken into consideration the fact that FIR Ex.P1 registered against respondent No.5 remained unrebutted throughout the proceedings. There is no material available on record to indicate that respondent No.5 ever approached any higher authority alleging false implication or wrongful registration of the criminal case. Rather, it has come on record that he is facing trial pursuant to the said FIR. The absence of any challenge to the registration of the criminal case lends further assurance to the case set up by the claimants regarding rash and negligent driving of the offending vehicle.

16. It is by now well settled that proceedings before the Motor Accident Claims Tribunal are summary in nature and the claimants are only required to establish their case on the touchstone of “preponderance of probabilities” and not by applying the strict standard of “proof beyond reasonable doubt” as required in criminal jurisprudence. The learned Tribunal has rightly adhered to the aforesaid settled principle while appreciating the evidence brought on record and has correctly concluded that the deceased sustained fatal injuries in the accident caused due to the rash and negligent driving of respondent No.5.

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17. In view of the aforesaid discussion, the findings recorded by the learned Tribunal on Issue No.1 are based upon correct appreciation of evidence and settled legal principles and, thus, deserve to be affirmed.

18. In view of the above discussion, the present appeal is hereby dismissed being devoid of any merit.

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

08.05.2026*Ayub/Sahil***(SUDEEPTI SHARMA)
JUDGE**

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