

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-6703-2023 (O&M)

CHOLAMANDALAM MS GENERAL INSURANCE CO. LTD.

..Appellant

Versus

KAJAL AND ORS.

..Respondents

Reserved on: 15.05.2026

Pronounced on: 18.05.2026

Uploaded on : 21.05.2026

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. Punit Jain, Advocate
for the appellant – Insurance Company.

Mr. Manish Jain, Advocate
Mr. Ketan Antil, Advocate
for respondent Nos.1 to 4.

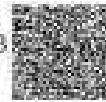
None for respondents No.5 and 6.

SUDEEPTI SHARMA, J.

1. The present appeal has been filed by the appellant-Insurance company against the award dated 09.10.2023 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal'), wherein the claim petition filed by the claimants was allowed and appellant-Insurance company was held liable to pay the compensation.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 16.05.2020 at about 11.00 PM, deceased Sarvesh Mudgal was going to Bhiwadi bypass in his Verna

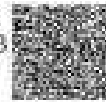


car bearing registration no. RJ-40CA-2508 and when he reached near Kajaria Society, Bhiwadi Alwar road, Bhiwadi, then a canter bearing registration no. RJ-02GB-9496, being driven by its driver in a very rash and negligent manner and at a very high speed came from wrong side and hit the car of deceased, due to which, he died on the spot itself. The accident has been caused solely due to rash and negligent act of driver Deen Mohd. while driving the offending vehicle in a very rash and negligent manner and at a very high speed, without following the traffic rules. The accident was reported to the police vide First Information Report No. 224 dated 07.05.2020 for the offence under Sections 279 and 304A of Indian Penal Code at Police Station Bhiwadi was registered. It is alleged that the deceased was aged about 43 years and was working as AGM in Munjal Auto Industries Limited, Dharuhera, Rewari and getting a salary of Rs. 1,50,000/- per month. Petitioners have claimed an amount of Two Crores & Fifty Lacs as compensation.

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

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

“1. Whether the accident in question took place due to rash and negligent driving of the offending vehicle Canter bearing registration no. RJ-02GB-9496 by the respondent no. 1 causing death of Sarvesh Mudgal son of Shiv Dutt Mudgal? OPP



2. If issue no. 1 is proved, to what amount of compensation, the claimants are entitled and from whom?

OPP

3. Whether the respondent no. 1 was not holding valid driving licence? OPR-3

4. Relief ”

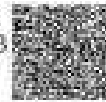
5. Thereafter, both the parties led their evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:

7. Learned counsel for the appellant-Insurance Company contends that while awarding compensation to the respondents-claimants vide the impugned Award, learned Tribunal erred in ignoring the fact that the respondents-claimants were the permanent residents of the District Alwar in Rajasthan and the accident in question also took place in the area falling within the above-said State. He furthermore contends that the claim petition was not maintainable before learned Tribunal as learned Tribunal did not have jurisdiction to decide the same. He furthermore contends that learned Tribunal has also not taken the factum of the deceased having contributed in causing the said accident by way of driving his Car on the wrong side on the road, into consideration. Therefore, he prays that the present appeal be allowed.

8. Per contra learned counsel for claimants/respondents No.1 to 4 contends that issue of rash and negligence has rightly been decided by learned Tribunal. He further contends that claimant No.4 in the claim

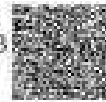


petition was permanent resident of Rewari, Haryana. And in Aadhar Card (Ex.P-7) also the address was mentioned as Rewari, Haryana. He furthermore contends compensation awarded by the learned Tribunal is on the lower side and he has filed separate appeal bearing **FAO-198-2024, titled as “Kajal and others Vs. Deen Mohd. and others”** seeking enhancement. Therefore, he prays that the present appeal be dismissed.

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

10. A perusal of the record reveals that the findings recorded by the learned Tribunal on Issue No.1 do not suffer from any illegality or perversity warranting interference by this Court. The learned Tribunal has appreciated the oral as well as documentary evidence in its correct perspective and has returned a well-reasoned conclusion regarding rash and negligent driving on the part of respondent No.5, the driver of offending vehicle No.RJ-02GB-9496. The testimony of the PW-1 Kajal consistently established that the offending vehicle was driven rash and negligently. Her version remained unrebutted in material particulars during cross-examination. Though the appellant-Insurance Company pleaded that the car, in which deceased was travelling was driven on the wrong side of the road, no such suggestion was put to the witness during cross-examination. Consequently, the said defence remained unproved and liable to be discarded.

11. It is further significant that no issue was framed by the learned Tribunal regarding alleged contributory negligence. In absence of issue and evidence, the plea of contributory negligence cannot be permitted to be



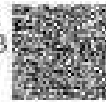
Insurance Co. Ltd., arising out of SLP (Civil) No. 833–834 of 2023, the

Hon'ble Supreme Court held that where no issue regarding contributory negligence had been framed by the Tribunal, the High Court ought not to entertain such plea to reduce compensation. The said principle squarely applies to the present case.

12. Adverting now to the contention raised by the learned counsel for appellant–Insurance Company that the learned Motor Accident Claims Tribunal committed an error in entertaining and allowing the claim petition despite the respondents–claimants being permanent residents of District Alwar, Rajasthan, and the accident having also occurred within the territorial limits of the said State, is wholly misconceived and untenable in law.

13. A perusal of the record reveals that the claim petition was instituted before the learned MACT, Rewari. And it is admitted position that the deceased was working in Rewari and in Aadhar Card (Ex.P-7) also the address of claimant No.4 is mentioned as Rewari, Haryana, therefore, the objection raised by the appellant is totally misplaced.

14. That apart, it is evident from the record that no objection with regard to territorial jurisdiction was ever raised by the appellant-Insurance Company before the learned Tribunal. The said plea has been sought to be urged for the first time before this Court in the present appeal. It is a settled principle of law that an objection relating to territorial jurisdiction, unless raised at the earliest opportunity and unless failure of justice is demonstrated, cannot be permitted to be agitated at the appellate stage. Moreso, in the present case, claimant No.4 was permanent resident of Rewari, Haryana, which is further proved by Aadhar Card (Ex.P-7).

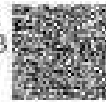


Therefore, the contention of the learned counsel for the appellant regarding jurisdiction of learned Tribunal, Rewari is rejected.

15. In this regard, reliance can also be placed upon the judgment of the Hon'ble Supreme Court in **Balveer Batra v. New India Assurance Company 2024 INSC 361**, wherein the Apex Court categorically held that an objection regarding lack of territorial jurisdiction in an appeal arising out of an award granting compensation cannot be entertained for the first time at the appellate stage. The relevant extract of same is reproduced as thus:-

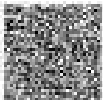
"12. Malati Sardar's case was decided after referring to the decisions in Mantoo Sarkar v. Oriental Insurance Company Ltd. (2009) 2 SCC 244 and in Kiran Singh's case (supra), as mentioned above. A bare perusal of the decisions in Mantoo Sarkar's case (supra), Kiran Singh's case (supra) and Malati Sardar's case (supra) would reveal that in all those decisions the objection regarding territorial jurisdiction was overruled by the Tribunal concerned and thereafter compensation was awarded. It is only at the appellate stage that the respondents' objection as to the territorial jurisdiction was upheld and the award was overturned. Evidently, in all those cases this Court referred to section 21 of the Code of Civil Procedure (for short the 'CPC' only) and it reads thus:-

"21. Objections to jurisdiction.- [(1)] No objection as to the place of suing shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice."



13. A bare perusal of section 21, CPC would reveal that objection as to the place of suing is not to be entertained by any Appellate or Revisional Court if it was not taken in the Court of first instance at the earliest possible opportunity and unless there has been a consequent failure of justice. While looking into the object and reasons for the aforesaid provision it is very clear as to why lack of territorial jurisdiction by itself was not recognized under it as a reason to make a judgment/decreed a nullity. It is to be noted that it is quite different and distinct from inherent lack of jurisdiction which would strike at the very authority of the Court to try a case and pass a judgment/decreed and would make it a nullity. On a careful consideration of the provisions under section 21, CPC, **we are of the considered view that** the provisions would undoubtedly make it clear though taking of an objection as to the lack of territorial jurisdiction before the Court of first instance at the earliest opportunity is a condition required to raise that objection before an appellate or revisional Court satisfaction of such condition by itself would not make an award granting compensation a nullity inasmuch as in such cases there would not be inherent lack of jurisdiction in Court in regard to the subject matter. Therefore, in such cases, correction by a Court is open, only if it occasions in failure of justice. The provision thus, reflects the legislative intention that all possible care should be taken to ensure that the time, energy and labour spent by a Court did not go in vain unless there has been a consequent failure of justice.

14. In the above view of the matter the decision in Mantoo Sarkar's case (supra) and Malati Sardar's case (supra) that objection of lack of territorial jurisdiction in an appeal against an award granting compensation could



not be entertained in the absence of consequent failure of justice, according to us, should be followed with alacrity and promptitude.”

16. In view of the settled legal position noticed hereinabove, this Court finds no illegality, infirmity, or perversity in the impugned Award passed by the learned Tribunal warranting interference in exercise of appellate jurisdiction.
17. In view of the above discussion, the present appeal is hereby dismissed being bereft of any merit.
18. Pending miscellaneous applications, if any, are also disposed of.

18.05.2026

Ayub/Sahil

(SUDEEPTI SHARMA)
JUDGE

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