



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-17-2025

KOMAL DEVI AND ORS.

.....Appellants

Vs.

RAVINDER KUMAR AND ANR.

.....Respondents

Reserved on : 08.12.2025

Pronounced on: 05.02.2026

Uploaded on: 05.02.2026

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. Mayank Gupta, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for respondent No.2-Insurance Company.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 06.11.2024, whereby, the claim petition filed by the appellants was dismissed.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that Succinctly, the facts of claim petition are that on 20.03.2022 Manti Kumar since deceased was going to Village Kandhla on motorcycle bearing registration no.UP-19K-5783 for some personal work. He was riding his motorcycle at a moderate speed by observing all the traffic rules and norms. When at about 11/11:30 am he



reached Village Issopur, Gangeru Marg, in the meantime, a vehicle bearing No.HR-01X0621 which was driven by its driver at a very high speed in a rash and negligent manner came from wrong side and hit the aforesaid motorcycle of Manti Kumar on the kacha portion of the road. Due to this impact, Manti received multiple, serious and grievous injuries on the various parts of his body and succumbed due to the injuries. After the accident, Mani Kumar was taken to Civil Hospital, Shamli for postmortem. The accident in question was taken place due to the rash and negligent driving of driver i.e. respondent no.1.

3. FIR No.86 dated 20.03.2022 was registered against respondent No.1 on the basis of statement made by the complainant. Therefore, the claim petition filed under Section 140 and 166 of the Motor Vehicles Act, 1988 was filed for grant of compensation of Rs.80,00,000/- along with interest at the rate of 24% per annum from the date of accident till its realization.

4. On receipt of notice, respondent No.1 appeared and filed his written statement, wherein, he took preliminary objection with regard to maintainability of the claim petition. Further that the offending vehicle was insured with respondent No.2-IFFCO Tokio General Insurance Company Limited and respondent No.2 is liable to pay compensation.

5. Further that there was neither rashness nor negligence on the part of driver of offending vehicle instead of the driver of motorcycle bearing No.UP-19K-5783 was himself driving at a very high speed and in wrong direction, which caused accident.



6. On merits, all the averments were denied and stated that if in case the compensation is granted by learned Tribunal, the burden should be on respondent No.2 being insurer of the vehicle in question.

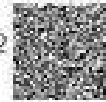
7. Respondent No.2 filed separate written statement, wherein, preliminary objection regarding maintainability was taken and that the claim petition is time barred. Further that respondent No.1 was not holding a valid driving licence and vehicle was being driving in violation of terms and conditions of insurance company.

9. On merits, the factum of accident was denied and stated that claimants in connivance with respondent No.1 and local police in order to extract money from respondent No.2 have filed the claim petition.

10. Further that the accident took place due to sole rash and negligent act of deceased himself i.e. driver of motorcycle bearing No.UP-19K-5783, who was driving the same without having valid driving licence and wearing any helmet, rashly and negligently at high speed without observing traffic rules and in that process lost control over the vehicle. And FIR is an after thought, which was registered against unknown person/driver and unknown vehicle on hit and run basis. Further that FIR was lodged after delay of 10 days without naming the driver.

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

“1. Whether the accident in question took place on 20.03.2022 in the area of PS Kandhla, District Shamli on account of rash and negligent driving of offending vehicle bearing registration no.HR-01X-0621 by respondent no.1 resulting into death of Manti Kumar? OPP



2. If Issue No.1 is proved whether the claimants are entitled to any compensation, and if so how much and from whom?OPP

3. Whether the respondent no.1 was not holding a valid and effective driving licence and vehicle was being plied in contravention of the terms and conditions of the insurance policy? OPR2

4. Relief.”

12. After considering the evidence, oral as well as documentary, the claim petition filed by the claimants was dismissed. Hence, the present appeal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

13. The learned counsel for the appellants contends that claim petition was wrongly dismissed only on the ground that eye-witness was not aware whether deceased was wearing helmet or not. Further that the claim petition was decided on the mechanical report of the offending vehicle, which is not even the part of the record. He further contends that mechanical report is dated 24.05.2022, whereas, accident took place on 20.03.2022. He further contends that the driver of the offending vehicle admitted the factum of the accident and did not appear to depose. Therefore, he prays that the present appeal be allowed.

14. *Per contra*, learned counsel for the respondent-insurance company contends that claim petition has rightly been dismissed after considering the evidence, oral as well as documentary, on record. Therefore, he prays for dismissal of the present appeal.

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



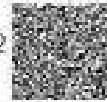
16. The relevant portion of the award is reproduced as under:-

“16. Having given due consideration to the arguments addressed by the counsel for the parties and have perused the case file minutely.

17. PW1 Komal Devi who is wife of the deceased Manti Kumar has fairly admitted that she did not witness the accident. PW2 Raj Kumar who is claiming himself as one of the eye-witness of the accident has stated that on 20.03.2022 at about 11:00 am deceased Banti (in fact the name of deceased is Manti as per stand of the claimants was the mention of wrong name of the motorcyclist is creating dent in the case of the claimants) was riding on the motorcycle. He further recounted the entire version of the claim petition in his chief-examination. During cross-examination, he stated that he was labourer by profession. He was not known the family of the deceased Manti before accident. There was not traffic on the road on the date of accident. The deceased was all alone. He did not know as to whether deceased was wearing helmet or not. He told to the family members of the deceased about the accident. He did not move any application to the police regarding this accident. Police recorded his statement after two days from the accident. PW3 Satish who also stated that he did not witness the accident. As such, the entire case of the claimants is hinging upon the sole testimony of Raj Kumar but the conduct of the witness as narrated by him after happening of accident is highly suspicious and not like of a witness who must have witnessed the accident. In the chief-examination in the shape of affidavit, this witness stated that he saw the condition of the injured which was serious then this witness must have taken the injured for his medical treatment to the nearest hospital or he may raised hue



and cry in order to attract the peoples of the nearby locality. This witness in his chief examination stated that since he was in hurry because of urgent work, so, he could not report the matter to the police on the same day. To my mind, the reporting of the matter to the police regarding accident is not very important but the welfare of the injured is a paramount consideration, as such in case this witness happened to see the mode and manner of the accident, he must have extended help to the injured in order to save his life. Surprisingly, this witness did not clarify as to whether the deceased was wearing helmet or not at the time of alleged accident and it shows that he was not present at the time of incident. To my mind, in case he witnessed the accident, he must have knowledge about wearing of helmet by the deceased or not. As per the version recorded in the FIR, an offending vehicle hit motorcyclist and the make and descriptions of the vehicle have not been given by this witness in the FIR. The FIR was registered on the same day of accident and in this manner, at the time of recording of the FIR, it was not knowing to the relative of the deceased and also to the local police who had caused the accident. Furthermore, if the story of the claimants is treated as correct even then they have failed to prove that the respondent no.1 was rash and negligent in committing the accident because PW2 Raj Kumar in the cross-examination has admitted that there was no rush of vehicle traffics. Furthermore, the best evidence is proved to be lagging behind on the part of the claimants. During the course of the arguments, counsel for the respondent no.2 submitted the mechanical report of offending vehicle bearing registration no.HR-01X-0621 which has been saddled in the criminal offence. To my mind, if this vehicle had committed an



accident from its front side then it was natural that its bonnet must have received some scratches and dent. The mechanical examiner examined this vehicle on 24.05.2022. The mechanical examiner did not observe anything on the body of the vehicle on the basis of which it could be said that this vehicle must have involved in the accident. The mechanical examiner has not reported that there was new paint on the body of the vehicle and as per columns of the inspection report of the mechanical examiner, all the body parts of the vehicles were found normal. As such, it can be said that claimants have failed to prove that deceased Manti Kumar died by receiving injuries in the road side accident and the claimants have also failed to prove any rash and negligent driving on the part of respondent no.1. They have failed to discharge the onus of this Issue. Accordingly, this Issue is decided against the claimants and in favour of respondents.

ISSUE NO.2

If Issue No.1 is proved whether the claimants are entitled to any compensation, and if so how much and from whom?OPP

18. Onus to prove this issue was upon the claimants, but same has become redundant in view of my findings as recorded in issue No. 1 because the claimants have failed to prove that accident took place due to rash and negligent driving of respondent no.1.

RELIEF

19. As an upshot of my above discussion, the instant claim petition is dismissed with costs. Memo of costs be prepared. File be consigned to the record room.”

17. In the written statement filed by respondent No.1 and 2 separately, the factum of accident is not denied. Neither the driver-cum-

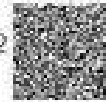


owner nor the insurance company has denied the factum of accident in the written statement. Raj Kumar (eye-witness) was examined as PW-2, who stated the factum of accident and specifically regarding the offending car being driven at a very high speed in a rash and negligent manner. Further he deposed that offending vehicle car bearing registration No.UP-19K-5783 was coming from the wrong side and hit the motorcycle. In his lengthy and exhaustive cross-examination his veracity could not be shaken.

18. A perusal of award further shows that learned Tribunal only on this ground that the witness (PW-2) did not know and could not say as to whether the deceased was wearing helmet or not and that the witness of the accident, who have the knowledge of the same totally discarded the unimpeachable testimony of PW-2 (eye-witness). The FIR was registered on the same day.

19. A perusal of award further shows that learned Tribunal has relied upon the report of mechanical examiner dated 24.05.2022 and accordingly decided the claim petition against the claimants. The learned Tribunal has totally ignored the written statement filed by both the respondents, wherein, they never denied the factum of accident.

20. Learned Tribunal totally ignored the FIR (Ex.P-1) and factum of presentation of challan (Ex.P-2). It is trite law that once FIR is lodged and challan is presented, it constitute prima facie evidence of the fact that accident occurred due to rash and negligent driving of driver of the offending vehicle. A bare perusal of site plan (Ex.P-3) proves the factum of accident. Ex.P-4 is the postmortem report, which clearly shows that the cause of death is shock due to hemorrhage as a result of ante-mortem injury,



which further proves the factum of accident. Furthermore, respondent never examined any witness and respondent No.1 in the written statement admitted the factum of accident and did not appear in the witness-box to depose that he was not negligent. Even as per the record, the insurance company did not examine a single witness.

21. A perusal of the record as well as reasoning given by learned Tribunal for dismissal of the claim petition is not acceptable to this Court and the findings are given without application of mind and without appreciation of evidence on record, oral as well as documentary. The same is therefore, set aside.

CONCLUSION

22. Accordingly, the present appeal is allowed and the appellant is held entitled to the compensation.

23. Since, there is no decision on issue No.2 and 3 by learned Tribunal, the matter is remanded to learned Tribunal to decide issue No.2 and 3 after taking into consideration the evidence led by all the parties and after considering the settled law as laid down by the Hon'ble Supreme Court.

24. The parties through their counsel are directed to appear before learned Tribunal on 24.03.2026.

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

(SUDEEPTI SHARMA)
JUDGE

05.02.2026

Ayub/Sahil

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