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

FAO-1999-2025 (O&M)

Date of decision: 08.08.2025

MAGMA GENERAL INSURANCE COMPANY LTD.**..Appellant****Versus****SATWANTI AND OTHERS****..Respondents****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Punit Jain, Advocate (through v.c.)
for the appellant.

SUDEEPTI SHARMA, J. (Oral)

1. The present appeal has been filed by the appellant-Insurance company against the award dated 03.01.2025 passed in a claim petition filed under Section 166 & 140 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal'), wherein the appellant-Insurance company was fastened with the liability to pay the compensation to the claimants along with interest @ 9% per annum from the date of filing of petition till actual realization.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 05.10.2020 at about 11:30PM, deceased Pardeep alongwith Kala, Deepak and Manish was going in Alto car bearing No.HR-06AN-0211 towards Karnal and said car was being driven by respondent no.1 Kala on high speed, rash, negligent and zig-zag manner due to which said car struck into the tractor bearing No.UP-11BB-5542. Due to the impact, Pardeep received serious, grievous and multiple injuries and



succumbed due to the injuries. The accident occurred due to negligence of respondent no.1-driver of offending vehicle bearing No.HR-06AN-0211. In this manner, the deceased has died on account of accident caused by rash and negligent driving of Car bearing registration No.HR-06AN-0211 being driven by respondent No.1. In this regard, FIR No.617 dated 6.10.2020 under Section 279, 337 & 304-A IPC was registered at Police Station Assandh, Karnal.

3. Upon notice of the claim petition, respondent No.1 and 2 appeared and contested the claim petition by filing written statement 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 on 05.10.2020 at about 11:30pm. in the area of P.S. Assandh Karnal due to rash and negligent driving of offending Car bearing registration no.HR-06AN-0211 on the part of respondent no.1 Vikas resulting into death of Pardeep? 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 claim petition is not legally maintainable in the present form?OPR

4. Whether the claimants have got no locus-standi and cause-of-action to file the claim petition?OPR

5. Whether the claim petition is bad for mis-joinder and non-joinder of necessary parties?OPR



6. Whether the respondent no.1 was driving the offending vehicle in violation of the terms and conditions of the insurance policy and was not having a valid driving licence on the alleged date of accident? OPR3

7. 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. However, the liability to pay compensation was fastened upon the appellant-Insurance Company.

SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT:

7. Learned counsel for the appellant-Insurance Company contends that learned Tribunal has failed to appreciate the fact that the father of deceased had suspicion regarding the cause of death of the deceased. He further submits that owner of tractor-trolley was not impleaded as party to prove the negligence. He further contends that the income of the deceased has wrongly been taken on the higher side. Therefore, he prays that the present appeal be allowed.

8. I have heard learned counsel for the appellant and perused the whole record of the case.

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

“11. I have heard Shri Shri Surender Kumar, Advocate for claimants, Shri Pardeep Goyal, Advocate for respondents no.1 & 2, Sh.Atul Mittal, counsel for respondent no.3 and carefully gone through the record of the case. My issue-wise findings, with reasons thereof, are as under:-

ISSUE NO.1:



(1) Whether the accident in question took place on 05.10.2021 at about 11:30pm. in the area of P.S.Assandh Karnal due to rash and negligent driving of offending Car bearing registration no.HR-06AN-0211 on the part of respondent no.1 Vikas resulting into death of Pardeep? OPP

12. Onus to prove this issue was on the petitioners. The material question in the case is whether accident resulting in death of deceased Pardeep occurred on account of rash/negligent driving of Car bearing registration no.HR-06AN-0211 by respondent No.1.

13. It has been contended by learned counsel for petitioners that the deceased Pardeep was the only son of claimants who has expired in the accident happened on 5.10.2020 due to the rash and negligent driving of the driver/respondent no.1 in Alto Car bearing Registration No.HR-06AN-0211. Deceased was sitting in the abovesaid car which was being driven by respondent no.1 Kala in high speed in a zig-zag manner and due to said reason, said car hit behind into tractor-trolley bearing registration no.UP11BB-5542 and deceased received multiple and grievous injuries and he succumbed to the injuries on the day of accident itself. The Tractor-trolley and Car both were recovered from the spot. Since it was the negligence of the car driver, a case of rash and negligent driving, causing death due to rash and negligent act/driving has been registered against respondent no.1 and he is facing trial. In such circumstances, it is proved that deceased Pardeep who was below the age of 18 years and was a student of 10th class, has expired due to the rash and negligent driving of respondent no.1. Therefore, it is prayed that claimants are entitled for just and fair compensation for the death of their son Pardeep and same be awarded.



14. *Per contra, learned counsel for respondent No.3 has submitted written arguments and vehemently contended that as per the case of the claimants any rash and negligent driving against respondent no.1 is not proved on record. No eye-witness of the alleged accident has been examined on record. PW2 Rajbir is not the eye-witness of the accident and there are severe discrepancies in his examination in this regard which revealed that abovesaid accident is not proved. It is stated that car of respondent no.1 struck behind the tractor-trolley but the tractor driver of abovesaid tractor bearing registration no.UP-11BB-5542 has not been implicated being the offending vehicle whereas it was a contributory negligence case. There is negligence on the part of the driver of the alleged offending vehicle tractor also and therefore, the compensation is liable to be reduced. Learned counsel for respondent has relied upon the authorities titled as Sudha Rani Goyal vs. M/s Krishna Steel & Others 2011(2) Law Hearld (Acc) page 130 and Jamna Devi vs. Suresh Kumar & others 2009 ACJ 506(P&H).*

During the arguments of respondent no.3, it is not denied that offending vehicle/car was insured with respondent no.3. lastly, it is prayed that claim petition is liable to be dismissed.

15. *This Tribunal with the help of counsel for parties has gone through the pleadings and evidence of the parties, as referred above. On the basis of analysis of the evidence, it is a fact on record in the present case that claimants are the parents of deceased Pardeep who allegedly expired in the motor vehicle accident happened on 5.10.2020. PW1 Satwanti (mother of deceased) has examined herself and tendered her affidavit Ex.PW1/A and has testified that her son expired in the motor vehicle*



accident happened on 5.10.2020. He was only 17 years of age at the time of accident. One FIR No.617 dated 6.10.2020 under Section 279, 337 & 304-A IPC has also been registered at Police Station Assandh, Karnal in this regard.

16. Further, claimants also examined one of the eye-witness of the accident PW2 Rajbir who has testified in his affidavit Ex.PW2/A to the effect that on 5.10.2020, in the nigh, he alongwith Rakesh son of Parkash was going to his field on their motorcycle from his house and when he reached near bus stand of village Dhari, he saw that a tractor-trolley was going ahead and a car bearing no.HR-06AN-0211 came from Assandh side which was being driven in high speed, in rash and negligent manner in a zig-zag way and it hit the backside of the tractor-trolley. On reaching the spot, he saw that four persons namely Pardeep son of Jagdish (deceased), Kala @ Vikas son of Karam Singh, Manish and Deepak were boarded in the car. Pardeep received serious injuries and he died due to the injuries sustained in the accident. Abovesaid deposition of PW2 has been disputed by respondent claiming that he is not the eye-witness of the case. Cross-examination of PW2 Rajbir is to be referred in this regard vide which he has revealed that he is not a witness in the criminal case. He stated that police had called him on 7.10.2020 at P.S.Assandh. His statement was recorded by police alongwith the statements of other persons. He did not know who has recorded his statement. He has again reiterated the fact that the abovesaid accident happened near Thari bus stop in which the offending vehicle hit into back of tractor-trolley and tractortrolley was loaded with wooden log. He has witnessed the accident from the distance of about 1 Acre. He again stated that car was being driven by respondent no.1 Vikas. As per the



testimony of PW2 Rajbir, it is apparent that though, he has not admitted the injured in the hospital but there is nothing in the cross-examination of PW2 to dispute the fact that he has witnessed the accident. Though, he is not the complainant of the criminal case got lodged for the abovesaid accident but it cannot be disputed that the abovesaid accident has not happened in the manner deposed by him.

17. It is also pertinent to mention here that respondent no.3 in support of their defences has also examined two witnesses. RW1 Krishan Kumar, HC from P.S.Assandh who brought the summoned record of FIR No.617 dated 6.10.2020 under Section 279, 337 & 304-A IPC registered at Police Station Assandh, Karnal, complaint was moved by father of deceased Pardeep Ex.R1. Copy of FIR Ex.R2 was produced on record. It is referred here that as per the complaint ExR1 and FIR Ex.R2, it is specifically mentioned that deceased Pardeep was travelling in the car/offending vehicle bearing registration no.HR-06AN-0211 on the day of occurrence and since son of complainant Jagdish had expired, he shown his suspicion of any foul play by respondent no.1 for causing the death of his young son. Initial complaint was given by him accordingly. This fact does not disprove the accident in question, rather it supports the abovesaid accident caused by respondent no.1 driving the vehicle in rash and negligent manner, which has been investigated by police and found accordingly.

18. Further, RW2 Sanjay Kalyan, clerk from Civil Hospital, Karnal has brought the summoned record of indoor register, patients brought dead register and police information register from 5.10.2020 to 7.10.2020. As per his deposition Pardeep son of Jagdish was brought dead in Civil Hospital, Karnal on 6.10.2020. There was no



record of other patients namely Kala, Deepak and Manish. The PMR register Ex.R6 has also been produced. Abovesaid deposition prove the fact that deceased Pardeep was brought dead in the hospital due to the injuries suffered in the accident. The fact that other persons of the car were not injured in the accident did not prove anything in favour of respondent not rule out the involvement of the offending vehicle in the alleged accident. Furthermore, postmortem report Ex.R6 and police information record Ex.R5 have proved the fact that deceased Pardeep expired due to the roadside accident injuries.

19. Moreover, respondent no.1 has not stepped into the witness box to rebut the evidence led by petitioners. There is nothing to believe the version of the respondent that respondents have been falsely implicated in the criminal case. There is nothing on record to show that there is false implication of offending vehicle. Respondents no.1 & 2 have not appeared in the witness box to refute the claim of the petitioners.

20. Moreover, besides the testimony of PW1 Satwanti and PW2 Rajbir, FIR Ex.P4, copy of final report Ex.P5, copy of site-plan Ex.P6 and mechanical examination report attached with the final report showed the involvement of respondent no.1 and offending vehicle driven by him bearing registration no.HR-06AN-0211 marka Alto which had hit the tractor from backside. In the site-plan Ex.P6, abovesaid accident has happened in between the road and there is no proof placed on record by respondents to prove the contributory negligence on the part of driver of the tractor. He has not been made accused in the criminal case registered for the said accident. It is an admitted fact that respondent no.1 had faced the trial for the offences disclosed in final report.



21. It is pertinent to refer a ruling of Hon'ble Punjab and Haryana High Court in *Girdhari Lal Versus Radhey Shyam and others*, 1993(2), *Punjab Law Reporter (Punjab and Haryana)* 109, in which this proposition of law was laid down that when driver of offending vehicle faced criminal proceedings and he remained in doll drum during all proceedings, then presumption is drawn that the accident was caused by him due to his rash and negligent driving.

22. In '***Bikram Singh Versus Sarwan Singh 2010(2) LJR 802***', it has been held by Hon'ble Punjab & Haryana High Court that even if criminal Court acquits driver of the charges it will be no ground to set aside order passed by MACT, meaning thereby that the registration of the FIR itself is sufficient to probable the case of the petitioner that the driver of the offending vehicle had been rightly involved in the FIR. Reference may further be made to '***United India Insurance Company Ltd. Versus Meena and others II (2010) ACC 935 (DB)***', wherein it is observed that the proceedings before the Tribunal are of summary nature, and only for the purpose of determination of compensation, therefore, the documents prepared by the police may be taken on its face value.

23. It is now well settled that enquiry proceedings before claims Tribunal are of summary nature. If there is some evidence before a Tribunal in order to prove a fact, then no nicety, doubt or suspicion should weigh with it in deciding claim case. The strict proof of an accident caused by the vehicle in a particular manner may not be possible to be done by the petitioners. The petitioners are only to establish his case on the touch stone of preponderance of probability. The standard of proof beyond reasonable doubt could not be applied in such a



*case. Reference in this regard may be made to the rulings **Kusum and others Vs. Satbir and others, 2011 AIAR (Civil) 413, Bimla Devi and others versus Himachal Road Transport Corporation and others (2009) 13 SCC 530**, it has been held that the proceedings before the Claims Tribunal are of summary enquiry in nature.*

*24. In **Vimla Devi and others Vs. National Insurance Co. Ltd. and others 2019 ACJ 454** it was observed: “At the outset, we may reiterate as has been consistently said by this court in a series of cases that the Act is a beneficial piece of legislation enacted to give solace to the victims of motor accidents who suffer bodily injury or die untimely. The Act is designed in a manner which relieves the victims from ensuring strict compliance provided in law, which are otherwise applicable to the suits and other proceedings while prosecuting the claim petitions filed under the Act for claiming compensation for the loss sustained by them in the accident.*

25. Hence, in view of the abovesaid discussion, it is established on record that in the accident happened on 5.10.2020 caused by rash and negligent driving by respondent no.1 while driving offending vehicle bearing registration no.HR-06AN-0211 deceased Pardeep received grievous and severe injuries and expired. Hence, issue no.1 is decided in favour of petitioners and against the respondents.”

10. A perusal of the impugned award reveals that the learned Tribunal has duly appreciated the entire evidence adduced by the parties and returned a well-reasoned finding that the accident in question was the result of rash and negligent driving of the offending vehicle by its driver, Vikas (Respondent No. 3 herein).



11. The submission advanced on behalf of the appellant—insurance company, that the father of the deceased had harboured suspicion regarding the cause of death of his son (now since deceased), is wholly unfounded. The learned Tribunal has dealt with this contention in detail and rightly rejected it. The post-mortem report (Ex. R6) categorically records the cause of death as injuries sustained in a road traffic accident. Similarly, the police intimation (Rukka) Ex. R5 corroborates that Pardeep expired due to road side accident injuries. No evidence either oral or documentary has been adduced by the appellant to support the allegation of foul play. As held by the Hon'ble Supreme Court in *Bimla Devi & Ors. v. Himachal Road Transport Corporation & Ors., (2009) 13 SCC 530*, the standard of proof in motor accident claims is that of preponderance of probability and not proof beyond reasonable doubt. The learned Tribunal was, therefore, justified in accepting the consistent and corroborated version of the claimants.

12. It is trite law that Appellate Courts not to interfere with findings of fact recorded by the Tribunal unless such findings are shown to be perverse, based on no evidence, or contrary to law. In the present case, the findings of the Tribunal are supported by the FIR, site plan, eyewitness testimony, and medical evidence all of which consistently point towards the culpability of the driver of the offending vehicle.

13. It is equally significant to note that the Motor Vehicles Act, 1988 is a social welfare legislation intended to provide just, fair, and timely compensation to victims of motor accidents or their dependents, viewed thus, there is even greater reason to affirm well-reasoned awards that are based on sound appreciation of evidence and that serve the legislative intent of securing relief to accident victims.



14. Adverting to the second limb of argument advanced by counsel for the appellant-Insurance Company that the notional income assessed by the Tribunal is on the higher side, it is fairly conceded by learned counsel for the appellant-Insurance Company that the claimants have already preferred a separate appeal seeking enhancement of compensation.

15. In the interest of judicial propriety to avoid conflicting findings, this Court refrains from rendering any observation on the question of quantum in the present appeal.

16. In light of the above discussion, and the settled legal principles, this Court finds no infirmity or perversity in the findings of the learned Tribunal that would warrant interference in exercise of appellate jurisdiction.

17. Accordingly, the present appeal being devoid of merit, stands dismissed.

18. Further it is hereby directed that the statutory amount of Rs.25,000/- deposited by the appellant at the time of filing of appeal in the Registry of this Court be returned to him.

19. Pending miscellaneous applications, if any, are also disposed of.

August 08th, 2025

Ayub

**(SUDEEPTI SHARMA)
JUDGE**

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