



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CM-12635-CII-2025 in/and
FAO-2813-2025 (O&M)
Date of decision: 14.07.2025

Go Digit General Insurance Company Ltd.

...Appellant(s)

Vs.

Rajwant Kaur and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sanjeev Kodan, Advocate
for the appellant.

NIDHI GUPTA, J.

CM-12635-CII-2025

This is an application under Section 151 CPC for preponing the date of hearing from 13.08.2025 to some early date of hearing.

2. Heard.

3. In view of the reasons mentioned in the application, which is duly supported by an affidavit of the applicant/appellant, instant application is allowed, and the main case is taken up on Board today itself.

CM-8971-CII-2025

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 70 days in filing the accompanying appeal.

2. Heard.



3. For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant, the same is allowed and delay of 70 days in filing the accompanying appeal is condoned.

CM-8972-CII-2025

Prayer in the present application under Section 173 of the Motor Vehicles Act read with Section 151 CPC is for adjustment of statutory amount of Rs.25,000/- deposited in the previous appeal i.e. FAO No. 1687 of 2025 against the same award, in the interest of justice.

2. Heard.

3. Learned counsel for the applicant/appellant submits that he may be permitted to withdraw the present application.

4. Permitted to do so.

5. Dismissed as withdrawn.

FAO-2813-2025 (O&M)

Present appeal has been filed by the insurance company against the Award dated 20.11.2024 passed by learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as "the learned Tribunal") whereby the claim petition bearing MACP Case No. 81 dated 07.04.2022 filed by the claimants/respondents No. 1 to 4 herein, under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"), has been allowed; and the claimants have been granted compensation of Rs.18,37,100/- along with interest @ 8% per annum. The 4 claimants are



the widow, 2 minor children, and mother of the deceased Harwinder Singh.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased- Harwinder Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 20.02.2022 due to the rash and negligent driving of a Maruti Car bearing registration No. PB42-C-3800 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.5; owned by respondent No.6; and insured by the appellant-insurance company herein.

3. Learned counsel for the appellant assails the compensation on the ground that FIR in the present accident was although registered on the very next day after the accident, but it was registered against unknown vehicle and driver. It is submitted that there is nothing on record to indicate as to how and in what manner the involvement of the offending vehicle is made out. It is contended that in fact the claimants have been unable to prove that offending vehicle was involved in the accident dated 20.02.2022. Therefore, liability to pay impugned compensation could not have been fixed upon the appellant.

4. Learned counsel further submits that father of the deceased in his statement (Annexure A2) made to the Investigator appointed by the appellant company, had admitted that the deceased had struck into a ‘Rehri’ which was loaded with iron pipes of the tent house. It is submitted



that this conversation was video-graphed, and CD was duly placed before the learned Tribunal as RW2/1. The said CD was duly proven by Investigating Officer/RW2. Ld. Counsel contends that in view of the unequivocal admission of the father of the deceased that the accident had been caused by a rehri, it is clear that the offending vehicle was not involved in the accident in question; and therefore, liability could not have been imposed upon the appellant.

5. In support of his arguments, learned counsel for the appellant relies upon the judgment passed by Hon'ble Supreme Court in ***Special Leave to Appeal No. 32138/2018*** titled as "***New India Assurance Co. Ltd. Vs. Velu and another***", ***decided on 12.12.2024***; and judgments passed by Coordinate Benches of this Court in ***FAO-140-2012*** titled as "***Reliance General Insurance Co. Ltd. vs. Munshi Singh and others***", ***Neutral Citation No. 2015: PHHC: 001050***; and ***FAO-5613-2017*** titled as "***National Insurance Company Limited vs. Smt. Billo Devi and others***", ***Neutral Citation No.: 2018:PHHC: 059996***.

6. It is submitted that therefore, despite the fact that involvement of the offending vehicle is not established on record, yet liability has been fixed upon the appellant. He accordingly prays that the present appeal be allowed; and the impugned Award be set aside.

7. No other argument is raised on behalf of the appellant.

8. I have heard learned counsel for the appellant and perused the case file in great detail.



9. Brief facts of the case as set out by the claimants in the claim petition are that on 20.2.2022, deceased-Harwinder Singh son of Joginder Singh was coming back to his house at village Daroli, P.S. Ghagga, District Patiala from Ghagga alongwith Kulwinder Singh son of Madan Singh resident of village Daroli, PS Ghagga, District Patiala on his motor cycle bearing no. PB72-A-4705 make Bajaj Platina Colour Black. It is averred that Harwinder Singh was driving the motorcycle at a moderate speed on his correct left-hand side of the road by observing all traffic rules and above said Kulwinder Singh was his pillion rider. It is further averred that at about 7.45 p.m. when they reached near Old Brick kiln (Bhatha) on Ghagga Atalan Link Road, District Patiala then one Car Maruti bearing No. PB42-C-3800, colour White being driven by respondent No.5 rashly and negligently at a high speed in zig-zag manner, by coming on the wrong side of the road struck his Car against the Motorcycle of the deceased Harwinder Singh who had slowed down and had drawn his motorcycle on Kacha berm on the side at the road. It is further averred that due to the impact Harwinder Singh fell down on the road and received multiple simple and grievous injuries on his person and Kulwinder Singh received simple injuries as he fell into the wheat field on the side of the road. The driver of Car Maruti bearing registration no. PB-42-C-3800 i.e. respondent no.5 fled away from the spot after causing the accident alongwith his offending vehicle. The motorcycle of the deceased was also badly damaged. Many passersby gathered at the spot and Harwinder Singh was



taken to Civil Hospital, Patran for treatment by the said Kulwinder Singh with the help of the passersby but Harwinder Singh succumbed to the injuries sustained by him in the accident and the Doctors declared him brought dead. It is further averred that the postmortem on the dead body of the deceased was conducted by the concerned doctors at Civil Hospital Samana. The matter was reported to the police and on the statement of above said Kulwinder Singh, a case FIR No.12 dated 21.02.2022. u/s 279, 304-A,427 IPC was registered in P.S. Ghagga., District Patiala regarding this accident. It is further averred that the deceased was hale and hearty energetic man of 34 years.

10. It is the case of the appellant-insurance company that FIR Ex.C1 in question was registered against the unknown vehicle and driver. Therefore, involvement of the offending vehicle is not established. However, the said argument is flawed as it is the clearly pleaded case of the claimants that after causing the accident, respondent no.5 had fled from the scene along with the offending vehicle. As such, it is probable that at that time eyewitness Kulwinder Singh was unable to note the number of the offending vehicle as the respondent No.5 had fled away from the spot after causing the accident along with his offending vehicle. It has also been clearly stated that in the accident in question that the motorcycle of the deceased was badly damaged. As such, it cannot be said that merely because FIR was registered against an unknown person and unknown vehicle, involvement of the offending vehicle is not made out.



11. As regards the second contention of the appellant regarding the admission made by father of the deceased that the accident had taken place with a rehri, the same is also liable to be rejected. It is the case of the appellant that the admission was made by the father of the deceased before the Investigator/RW2, who had videographed the same; and CD of the said videography was produced before the Tribunal; and the same was proved on record by RW2. RW2 had deposed in his statement (Annexure A3) that *"I have conducted investigation and CD Ex. RW2/1 was prepared from my recording through my mobile phone and contents of the same are true and correct as per my original recording done by me and the same was neither tempered nor altered in any manner till date"*. He further deposed that *"as per my investigation father of the deceased had clearly admitted that iron pipe struck against the chest of the deceased causing the injury. The said pipe were loaded/carried in on unknown motorcycle"*.

12. First and foremost, it has been stated by RW2 that the iron pipes were loaded on an unknown motorcycle. Learned counsel for the appellant is unable to explain this discrepancy. Even otherwise, they said version of the appellant is liable to be rejected in view of the other contrary, voluminous evidence, including the medical evidence. Perusal of the postmortem report dated 21.02.2022 (Ex.C2) of the deceased shows that the deceased had suffered following injuries: -



“1. There is a reddish swelling 3x3 cm over left side of forehead over the medial aspect of left eyebrow. On dissection there is fracture of left frontal bone. On further dissection there is SDH 3x2 cm of left frontal region of the brain.

2. Multiple reddish abrasions of variable sizes over anterior aspect of whole of right lower limb with deformity of right leg. On dissection there is fracture of shaft of tibia and fibula of right side.

3. A reddish abrasion 8x4 cm oblique over umbilical region of abdomen with extravasation of blood in underlying tissues.

4. A reddish abrasion 8x3 cm oblique in the middle of anterior aspect of right middle and lower chest. On dissection there are multiple ribs fracture anteriorly over right side with fractured ribs fragments piercing right lung resulting in hemothorax with approximately 250 ml fluid blood in thoracic cavity.

5. A reddish abrasion 7x3.5 cm, oblique over left lower abdomen with extravasation of blood in underlying tissues.”

13. The cause of death as per the postmortem report is as follows:-

“The cause of death, in this case, in my opinion is haemorrhage and shock as a result of injuries described D.T. alleged R.S.A. the injuries described are antemortem in nature and are sufficient to cause death in ordinary course of nature.”

14. If the case as put forth by the appellant is to be believed - that the accident had occurred with the Rehri which was carrying iron



rods - then the injuries found on the person of the deceased ought to have been piercings due to iron rods having entered into the person of the deceased. However, the above extract of the postmortem report clearly indicates that besides other injuries, deceased had suffered "*fracture of left frontal bone of the brain*"; "*fracture of shaft of tibia and fibula of right side*"; "*multiple fracture ribs*" etc. It is but trite that if the deceased had struck into the iron rods, then the nature of injuries suffered by the deceased would be very different from the ones recorded in the PMR. It is but immanent that from iron rods there would be piercings in the body of the deceased. The PMR mentions no such injury which could have been caused by iron rods. As such, the case sought to be put up by the appellant appears to be incorrect.

15. This is further fortified by the fact that no plea to this effect was taken by the appellant in the written statement filed before the learned Tribunal. Even learned counsel for the appellant is unable to explain that if the alleged statement of father of the deceased was in the possession of the appellant then why no pleading to this effect was made by the insurance company in its written statement before the learned Tribunal and why was it not alleged that death of the deceased had occurred due to the iron pipes loaded in the rehri. Even the CD produced by the appellant was not proved in accordance with law as per the provisions of the Indian Evidence Act. Findings of Tribunal in this regard



are contained in para 11 of the impugned Awarded dated 20.11.2024, the relevant extract of which reads as under: -

“.....It has been hotly argued by learned counsel for Insurance Company that story of the claimants regarding accident in question is manipulated one and it has been admitted by father of the deceased that in the video recording the pipe of Rehri struck against the chest of deceased due to which he has died. Further he argued that there was no other vehicle was present at the spot and he has also put reliance of testimony of RW2 Siddarth Mishra, Investigator. Though in the testimony of RW2 the alleged CD has been exhibited as Ex. RW2/1 on the file but it is also on the file that the above mentioned CD was objected to by the learned counsel for claimant on the ground of mode of proof and it is prima facie clear on the file that above mentioned CD Ex. RW2/1 has not been proved on the file as per requirements of Indian Evidence Act and no benefit could be drawn out of that CD due to that reason by the respondent/insurance company and that was a fatal set back to the story set up in the course of arguments by learned counsel for Insurance company. Apart from that there are no pleadings of the respondent Insurance company regarding alleged CD and further that the death of deceased was caused due to iron pipes loaded on the Rehri and it is well settled law that the evidence as well as the arguments which are beyond the pleadings are not admissible at all and due to that reason respondent Insurance company miserably failed to prove as set up during the course of arguments whereas on the other hand as discussed above claimants fully proved on the file their case by leading cogent and convincing



evidence.

12. So from the aforesaid evidence, claimants have very well proved on the file by way of leading cogent and convincing evidence that Harwinder Singh son of Joginder Singh had died in motor Vehicular accident occurred on 20.2.2022 due to rash and negligent driving of respondent no. 1 while driving Car No. PB42-C-3800 which is also owned by respondent no. 2 and insured with respondent no. 3. Accordingly, issue no. 1 is decided in favour of claimants and against respondents.”

16. Furthermore, in view of the unrebutted testimony of eyewitness Kulwinder Singh CW2, who has categorically reiterated the facts as notice above, the involvement of the offending vehicle in the accident in question is proven. Admittedly, challan Ex.C14 has also been presented against respondent No.5 in the present case; and chargesheet has been filed against respondent No.5 in the above said FIR No. 12 dated 12.02.2022; and respondent No.5/driver of the offending vehicle has not appeared in the witness box to rebut the allegations of accident. It is also to be kept in mind that proceedings before the Motor Accident Claims Tribunal are summary in nature, and to be determined on the preponderance of probabilities, and not to be conducted as a criminal trial. Further, no argument has been raised by learned counsel for the appellant-insurance company in respect of the quantum of compensation.

17. The judgments relied upon by learned counsel for the appellant can be of no assistance to the appellant as the same are distinguishable on facts and law.



18. In view of the above, present appeal is **dismissed**.
19. Pending application(s) if any also stand(s) disposed of.

14.07.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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