



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

(215)

FAO No. 309 of 2004(O &M)**Reserved on: 08.10.2025****Pronounced on: 13.10.2025****JASMINDER SINGH****.....APPELLANT****VERSUS****BALWINDER SINGH AND OTHERS****.....RESPONDENTS****CORAM- HONBLE MR,JUSTICE VIRINDER AGGARWAL**

Present: Mr. Digvijay, Advocate for
Mr. Vikas Chaudhary, Advocate
for the Appellant.

Mr. R.C.Kapoor, Advocate
for the Respondent no.3.

VIRINDER AGGARWAL(J.)

1. The present appeal arises from the award dated 11.12.2003 passed by the Motor Accidents Claims Tribunal, Karnal, whereby the claim petition filed by the appellant/claimant under Sections 166 and 140 of the Motor Vehicles Act, 1988, seeking compensation for damage caused to his shop by the offending vehicle (Tempo-Trax No. HR-02-E-7408), was dismissed.

BACKGROUND FACTS

2. Briefly stated, the facts of the case are that on 22.7.2000 at about 2:30 a.m., the offending vehicle-Tempo Trax bearing no. HR-02-E-7408, while being chased by a police Gypsy, was driven by respondent no.1 at high speed in negligent manner and entered into the appellant's shop (Chaudhary Dental



Clinic, Opposite Subhash Gate, Karnal) by breaking down the shutter, thereby causing extensive damage to the shop's structure and articles lying therein. The appellant assessed the loss at Rs. 80,000/- for the shop and its articles, and Rs. 1,00,000/- for business loss due to the shop remaining closed for thirty days, claiming a total sum of Rs. 1,80,000/- along with interest at 24% per annum from the date of the accident. A criminal case vide FIR No. 589 dated 22.7.2000 under Sections 279/337/114/427/34 of the Indian Penal Code was registered at Police Station City, Karnal, in relation to the incident.

3. The learned Tribunal framed the following issues on 15.10.2001:

(1) Whether the claimant's shop was damaged on account of rash or negligent driving of Tempo-Trax No. HR-02-E-7408 by respondent No.1 Balwinder Singh? OPP

(2) Whether the claimant is entitled to the damage caused to his shop in the above occurrence on 22.7.2000, if so to what amount? OPP

(3) Whether the respondent No.1 was not having license at the time of accident, if so its effect? OPR3

(4) Relief.

4. After considering the evidence, the learned Tribunal decided Issue No.1 against the appellant, holding that rash and negligent driving by respondent No.1 (Balwinder Singh) was not proved, primarily on the ground that the criminal charge-sheet (challan) was presented against Ajay Kumar (respondent No.2, the owner), and not against Balwinder Singh. Consequently, Issues Nos.2 and 3 were held to be infructuous, and the claim petition was dismissed without any order as to costs.

**CONTENTIONS**

5. Learned counsel for the appellant contends that the learned Tribunal has erred in dismissing the claim petition by ignoring the material evidence and pleadings on record. It is submitted that the offending vehicle was admittedly found at the spot of the accident, and the respondents failed to rebut the presumption of negligence arising therefrom. The learned Tribunal failed to appreciate that the FIR was promptly registered and even the insurer (respondent No.3) had admitted that the damage was caused by the offending vehicle. Despite such clear evidence, the learned Tribunal erroneously held that the appellant had not proved negligence, which finding is perverse and contrary to the record. The dismissal of the claim petition, therefore, rests on conjectures and surmises rather than proper appreciation of evidence, and the award deserves to be set aside.

6. *Per Contra*, learned Counsel for the respondent no. 3 has submitted that the learned Tribunal has correctly dismissed the claim petition. It is stated that the appellant has failed to establish negligence on the part of the driver or owner of the offending vehicle, and the Tribunal has rightly appreciated the evidence and applied the law. No interference is warranted as the findings of the learned Tribunal are based on proper evaluation of the facts and law.

OBSERVATIONS AND FINDINGS

7. I have heard learned counsel for the appellant, perused the record, including the grounds of appeal, the impugned award, and the evidence adduced before the learned Tribunal.



8. The core question in this appeal revolves around Issue No.1, i.e., whether the damage to the appellant's shop was caused due to rash or negligent driving of the offending vehicle. The learned Tribunal's finding on this issue is primarily based on the discrepancy in the criminal proceedings, where the charge was framed against Ajay Kumar (owner) for offences under Sections 279/337/114/427 of the IPC, while the claim petition alleged Balwinder Singh as the driver. However, this approach overlooks crucial circumstantial evidence and settled legal principles.

9. It is undisputed that the offending vehicle was found at the spot of the accident in a damaged condition, embedded in the appellant's shop after breaking the shutter during the night hours. The FIR(EX.P5) was lodged promptly, and the challan (Ex.R4) was presented against the owner (respondent No.2), who has been shown to be the driver of the offending vehicle at relevant time. Moreover, he is also vicariously liable for the use of his vehicle. The respondents, particularly the owner, did not step into the witness box to rebut how the vehicle reached the accident spot in such a condition or who was driving it at the relevant time. In motor accident claims, where the vehicle is found at the scene of the accident causing damage, the doctrine of *res ipsa loquitur* applies, raising a presumption of negligence on the part of the driver/owner, which shifts the burden to the respondents to explain the circumstances. No such explanation was forthcoming. The fact that the accident occurred at 2.30 AM mid-night, with the offending vehicle being chased by police and crashing into a closed shop, further corroborates negligent and rash driving.



9.1 The learned Tribunal's insistence on direct eyewitness testimony or precise identification of the driver ignores that the owner has a duty and liability to ensure safe use of his vehicle, and failure to rebut the presumption renders him liable. The registration of the FIR(supra) and presentation of the challan against the owner-respondent no.2 substantiate the involvement of the offending Tempo and the negligent act. Thus, the finding on Issue No.1 is perverse and liable to be set aside. Issue No.1 is decided in favour of the appellant, holding that the damage was caused due to rash and negligent driving/handling of the offending Tempo, for which the owner (respondent No.2) is liable, along with the driver (if any).

10. Having reversed the finding on Issue No.1, Issues Nos.2 and 3 now require adjudication. Issue No.2 pertains to the appellant's entitlement to compensation and the quantum thereof, based on the evidence of damage, business loss, and supporting documents. Issue No.3 relates to whether the driver held a valid driving license at the time of the accident and its effect on the liability of the insurer (respondent No.3). The learned Tribunal, having dismissed the petition on Issue No.1, did not discuss or record findings on these issues, rendering the award incomplete. In the interest of justice, and to avoid multiplicity of proceedings, the matter is remanded to the learned Tribunal for decision on Issues Nos.2 and 3, after affording opportunity to the parties to lead additional evidence, if required, on these limited points. The learned Tribunal shall decide the matter expeditiously, preferably within six months from the date of receipt of the record.

11. The appeal is **allowed** in the above terms. The impugned award dated 11.12.2003 is set aside, and the case is remanded for adjudication on Issues Nos.2 and 3. No costs.



12. Since the main appeal stands decided, pending miscellaneous application(s), if any, also stands disposed of.

13.10.2025

SAURAV PATHANIA

(VIRINDER AGGARWAL)
JUDGE

Whether speaking/non-speaking : Yes
Whether reportable : Yes