IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision : 25.08.2025

1. FAO-8494-2017 (O&M)

The New India Assurance Company Ltd. ..... Appellant

versus

Santosh Rani and others ..... Respondents

2. FAO-6554-2018 (O&M)

Santosh Rani and others ..... Appellants

versus

Jaswinder Singh and another ..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rajneesh Malhotra, Advocate
for the appellant in FAO-8494-2017 and
for respondent No.2 in FAO-6554-2018.

Ms. Promila Nain, Advocate
Mr. Mohinder S. Nain, Advocate and
Mr. Amit Thakur, Advocate
for respondent No.2 to 4 in FAO-8494-2017 and
for the appellants in FAO-6554-2018.

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PANKAJ JAIN, J. (Oral)

1. These two appeals are directed against same award. FAO-8494-2017 is at the behest of the insurance company. FAO-6554-2018 is by the claimant.

2. Mr. Malhotra counsel for the insurance company has assailed the findings recorded by the Tribunal on issue No.1. Mr. Malhotra submits that there is no evidence with respect to negligence of

the insured vehicle. He submits that author of the FIR is admittedly not the witness to the occurrence. Argument thus raised is that even if the accident is held to be proved, there is no evidence to prove negligence of the offending vehicle.

3. As per version of IO, one Daljit Singh had witnessed the accident. Daljit Singh was not examined. Even the IO, who recorded statement of Daljit Singh was not examined.

4. I have heard Mr. Malhotra and have carefully gone through the records of the case.

5. Manjit Kumar real brother of the deceased is the author of the FIR. He appeared in witness box to prove that he received a call from the place of incident. When he reached at the place of occurrence, he saw his brother lying dead on the spot and Swift car was standing nearby. It is not disputed that FIR No.151 dated 04.12.2013 came into being on the same day without there being any delay. The driver of the offending vehicle was booked for offences punishable under Sections 279, 304-A and 427 IPC, registered at Police Station, City Malout. After investigation, police presented report under Section 173 Cr.P.C. against the driver of the offending vehicle. He was chargesheeted and put to trial.

6. Trite it is that in the proceedings under Motor Vehicles Act, 1988, the standard of proof is not beyond reasonable doubt, but preponderance of probabilities. Law regarding standard of proof in the claim petition arising under Motor Vehicles Act is well settled and has been elaborately discussed by the Supreme Court in ***Dulcina Fernandes v. Joaquim Xavier Cruz (2013) 10 SCC 646***. Reiterating the ratio of

law laid down by Supreme Court in the case of ***Dulcina Fernandes ibid***, Supreme Court in ***ICICI Lombard General Insurance Co. Ltd. vs. Rajani Sahoo reported as 2025(2) SCC 599***, observed as under:-

> "xx xx xx
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> 7. The core contention of the appellant is that the Tribunal as also the High Court relied on the fraudulent chargesheet prepared by the respondents in connivance with the police. In short, the contention of the appellant is that the High Court erred in relying on the chargesheet to arrive at the conclusion that the accident in question in which Udayanath Sahoo lost his life had occurred due to the rash and negligent driving of the truck insured with the appellant. Though respondent Nos.1 and 2 did not file any counter affidavit, the learned counsel appearing for them would submit that there is absolutely no illegality in relying on such documents consisting of FIR and the final report prepared in relation to the accident in question by the police, for the purpose of considering the question of negligence in a motor vehicle accident case. That apart, it is contended that the appellant despite attributing connivance of the respondents with the police, the appellant failed to prove the same. In short, it is submitted that the appeal is devoid of merit and the same is liable to be dismissed.
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> 8. As regards the reliability of charge sheet and other documents collected by the police during the investigation in motor accident cases, this Court in the case of Mangla Ram v. Oriental Insurance Co. Ltd. [Mangla Ram v. Oriental Insurance Co. Ltd., (2018) 5 SCC 656 : (2018) 3 SCC (Civ) 335 : (2018) 2 SCC (Cri) 819 : 2018 INSC 311], held in para

No.27, thus : (SCC p.672)

> "27. Another reason which weighed with the High Court to interfere in the first appeal filed by Respondents 2 & 3, was absence of finding by the Tribunal about the factum of negligence of the driver of the subject jeep. Factually, this view is untenable. Our understanding of the analysis done by the Tribunal is to hold that Jeep No. RST 4701 was driven rashly and negligently by Respondent 2 when it collided with the motorcycle of the appellant leading to the accident. This can be discerned from the evidence of witnesses and the contents of the charge-sheet filed by the police, naming Respondent 2. This Court in a recent decision in *Dulcina Fernandes [Dulcina Fernandes v. Joaquim Xavier Cruz, (2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13]*, noted that the key of negligence on the part of the driver of the offending vehicle as set up by the claimants was required to be decided by the Tribunal on the touchstone of preponderance of probability and certainly not by standard of proof beyond reasonable doubt. *Suffice it to observe that the exposition in the judgments already adverted to by us, filing of charge-sheet against Respondent 2 prima facie points towards his complicity in driving the vehicle negligently and rashly*. Further, even when the accused were to be acquitted in the criminal case, this Court opined that the same may be of no effect on the assessment of the liability required in respect of motor accident cases by the Tribunal". (Emphasis Supplied)

9. It is true that the Tribunal had looked into the oral and documentary evidence including the FIR, final report and such other documents prepared by the police in connection with the accident in question. The Tribunal had also taken note of the fact that based on the final report, the driver of the offending truck was tried and found guilty for rash and negligent driving. The High Court took note of such aspects and found no illegality in the procedure adopted by the Tribunal and consequently dismissed the appeal.

10. In the contextual situation it is relevant to refer to a decision of this Court in Mathew Alexander v. Mohd. Shafi [Mathew Alexander v. Mohd. Shafi, (2023) 13 SCC 510 : 2023 INSC 621], this Court held thus : (SCC p. 514, para 12)

"12….A holistic view of the evidence has to be taken into consideration by the Tribunal and strict proof of an accident caused by a particular vehicle in a particular manner need not be established by the claimants. The claimants have to establish their case on the touchstone of preponderance of probabilities. The standard of proof beyond reasonable doubt cannot be applied while considering the petition seeking compensation on account of death or injury in a road traffic accident. To the same effect is the observation made by this Court in *Dulcina Fernandes v. Joaquim Xavier Cruz* [*Dulcina Fernandes v. Joaquim Xavier Cruz (2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13]* which has referred to the aforesaid judgment in *Bimla Devi* [*Bimla Devi v. Himachal RTC*, (2009) 13 SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101]."

11. Thus, there can be no dispute with respect to the

> position that the question regarding negligence which is essential for passing an award in a motor vehicle accident claim should be considered based on the evidence available before the Tribunal. If the police records are available before the Tribunal, taking note of the purpose of the Act it cannot be said that looking into such documents for the aforesaid purpose is impermissible or inadmissible. 12. It is also a fact that the appellant had attributed that the respondent claimants connived with police and fraudulently prepared the chargesheet. The contention is that the vehicle insured with the appellant was not involved in the accident and the accident had occurred solely due to the rash and negligence on the part of the deceased. But the evidence on record would reveal that pursuant to the filing of the final report, cognizance was taken for rash and negligent driving which resulted in the death of Udayanath Sahoo."

7. In view of the afore stated proposition of law, this Court does not find that any exception can be taken to the finding recorded by the Tribunal on issue No.1, the same is ordered to be affirmed.

8. Both the parties are disputing the quantum of compensation awarded by the Tribunal. Mr. Malhotra submits that even though the Tribunal has taken the deceased to be a labourer, yet his income has been assessed to be Rs.9,000/- much more than the notified minimum wages by State of Punjab for the relevant date.

9. *Per contra*, counsel for the claimants seeks enhancement. It has been contended that the deceased was running DJ service under the name and style Priya D.J. Sound at Malout and was earning Rs.20,000/-

per month. He submits that the widow of the deceased entered the witness box to prove the avocation of the deceased. She further claims that the amount awarded under the conventional heads of loss of estate and funeral expenses needs to be enhanced. A meagre amount of Rs.10,000/- has been awarded to claimant No.2 only for loss of consortium.

10. I have heard counsel for the parties and have carefully gone through the records of the case.

11. The compensation payable to the claimants is re-worked. Date of accident is 04.12.2013. State of Punjab notified minimum wages on 01.09.2013 for daily wagers. For highly skilled workers, minimum wages prescribed is Rs.8956.75 per month. As per the claimants, the deceased was running DJ Service. In view of above, this Court does not find any reason to interfere in the income of the deceased assessed by the Tribunal @ 9000/- per month. The same is maintained. Since deceased was 37 years of age, future prospects of 40% needs to be added. Deduction of 1/3 needs to be applied. Multiplier of 15 has to be applied. Each of 04 claimants is entitled for an amount of Rs.48,400/- on account of loss of consortium. The claimants shall also be entitled for Rs.18,000/- for loss of estate and Rs.18,000/- towards funeral expenses.

12. With the aforesaid modification, the award is modified. The apportionment shall abide by observations made by Tribunal in para No.25. Claimants shall also be entitled for interest @ 7.5% from the date of filing of the claim petition till the date of actual realization.

13. Accordingly, both the appeals are disposed off.

14. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

15. A photocopy of this order be placed on the file of other connected case.

(PANKAJ JAIN)
JUDGE

25.08.2025
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No