

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****FAO-4677-2025 (O&M)****Date of Decision : 01.08.2025**

SBI General Insurance Co. LimitedAppellant

VERSUS

Renu and OthersRespondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajneesh Malhotra, Advocate for the appellant.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the Insurance Company aggrieved by the award dated 15.05.2025 passed by the Motor Accident Claims Tribunal, Palwal (hereinafter referred to as the 'Tribunal').

2. The brief facts relevant to the present *lis* are that on 24.02.2022 Manoj Kumar son of Rajender was present at his home when his sister-in-law (Bhabhi) informed him that his elder brother Narender (hereinafter referred to as the 'deceased') had met with an accident near village Swamika. He reached on the spot at about 06.30 pm and found that the deceased was lying unconscious on the left side of the road and blood was oozing out from his ear, nose and head. There were bruises on his body and face. The motorcycle of the deceased was lying on the road and a damaged cycle was also lying 10 to 12 feet ahead of it. The deceased was taken to Apex Hospital from where he was referred to Asian Hospital, Faridabad where during his treatment he succumbed to his injuries on 25.02.2022 at

about 09.15 pm. Manoj Kumar also enquired about the owner of the damaged cycle and later came to know his name to be Om Parkash son of Sh. Ganga Lal, resident of village Swamika, Hathin who had also sustained injuries in the said accident. It was averred in the claim petition that the accident had taken place due to rash and negligent driving of a tractor bearing registration No.RJ-05-RC-8689 (hereinafter referred to as the 'offending vehicle') by its driver i.e. respondent No.5 herein. FIR No.87 dated 26.02.2022 under Sections 279, 304-A and 337 of the Indian Penal Code, 1860 was also got registered at Police Station Hathin, Palwal on the statement of Manoj Kumar.

3. Learned counsel for the appellant-Insurance Company would contend that while passing the impugned award the Tribunal has failed to take into consideration the fact that no accident had taken place and that the offending vehicle has falsely been planted in the present case to get the compensation. Learned counsel for the appellant-Insurance Company would further contend that the alleged accident had taken place on 24.02.2022 at about 06.30 pm whereas the FIR was registered on 26.02.2022 at 01.15 pm. It is further the contention that no best eye-witness has been examined and the only eye-witness, namely, PW-3 Om Parkash had made his statement before the police involving the alleged offending vehicle on 16.03.2022 i.e. after 21 days of the accident. Learned counsel for the appellant-Insurance Company has further contended that in the written statement the driver and owner of the offending vehicle i.e. respondent Nos.5 and 6 herein have clearly stated that they have been falsely implicated in the present case and

that a false FIR was registered against them qua the accident wherein registration number of the offending vehicle and name of its driver were not mentioned. It has further been contended that the compensation awarded by the Tribunal is highly excessive inasmuch as no evidence has been led on the record to prove the income of the deceased as ₹30,000/- per month.

4. Heard.

5. In the present case, the claimants i.e. respondent Nos.1 to 4 herein have examined five witnesses. PW-2 was Manoj Kumar on whose statement the FIR was registered. The said witness has proved on record copy of the FIR as Ex.P1 and in his affidavit tendered in evidence as Ex.PW2/A, he has deposed all the averments as contained in the FIR. PW-3 Om Parkash is the eye-witness of the accident, who tendered in evidence his affidavit as Ex.PW3/A and deposed on oath regarding the manner in which the accident had taken place. In his statement PW-3 Om Parkash has stated that on 24.02.2022 at about 06.15 pm he was coming from Hathin to his house on his cycle and when he reached between village Swamika and Ghighdaka, one motorcycle was going ahead of him and in the meantime a tractor (offending vehicle), which was being driven in a rash and negligent manner came from village Swamika and first hit the motorcycle and then also hit his cycle due to which he received injuries and in the said accident the motorcyclist had died. He further deposed that he had noted down the registration number of the tractor as RJ-05-RC-8689, which was of blue colour. PW-2 and PW-3 were subjected to a lengthy cross-examination but nothing could not be elicited therefrom to falsify the accident in question.

6. Further, admittedly, respondent No.5 i.e. driver of the offending vehicle has been facing trial in the FIR (Ex.P1) before the Area Magistrate. A certified copy of *sapurdari* order dated 16.03.2022 passed by the Area Magistrate (Ex.P14) reveals that the offending vehicle was got released on *sapurdari* by its owner i.e. respondent No.6 herein, namely Bhojraj Singh. The accident had taken place on 24.02.2022 and the FIR was registered on 26.02.2022 i.e. after 02 days, which is certainly not fatal in view of the judgment of Hon'ble Supreme Court in case of **Ravi vs. Badrinarayan & Ors. [2011(2) RCR (Civil) 190]**.

7. It is trite that the cases under the Motor Vehicles Act, 1988 are to be decided on the touchstone of preponderance of probabilities and weightage has to be given to the evidence recorded before the Tribunal. Hon'ble Supreme Court in the case of **National Insurance Company Limited V/s Chamundeswari & Ors. [2021 ACJ 2558 (SC)]** has held as under:

“8. It is clear from the evidence on record of PW-1 as well as PW-3 that the Eicher van which was going in front of the car, has taken a sudden right turn without giving any signal or indicator. The evidence of PW-1 & PW-3 is categorical and in absence of any rebuttal evidence by examining the driver of Eicher van, the High Court has rightly held that the accident occurred only due to the negligence of the driver of Eicher van. It is to be noted that PW-1 herself travelled in the very car and

PW-3, who has given statement before the police, was examined as eye-witness. In view of such evidence on record, there is no reason to give weightage to the contents of the First Information Report. If any evidence before the Tribunal runs contrary to the contents in the First Information Report, the evidence which is recorded before the Tribunal has to be given weightage over the contents of the First Information Report. In the judgment, relied on by the appellant's counsel in the case of Oriental Insurance Company Limited v. Premlata Shukla and Others, 2007 (13) SCC 476, this Court has held that proof of rashness and negligence on the part of the driver of the vehicle, is therefore, sine qua non for maintaining an application under Section 166 of the Act. In the said judgment, it is held that the factum of an accident could also be proved from the First Information Report. In the judgment in the case of Nishan Singh and Others v. Oriental Insurance Company Limited, 2018 (6) SCC 765, this Court has held, on facts, that the car of the appellant therein, which crashed into truck which was proceeding in front of the same, was driven negligently by not maintaining sufficient distance as contemplated under Road Regulations, framed under Motor Vehicles Act, 1988. Whether driver of the vehicle was negligent or not,

there cannot be any straitjacket formula. Each case is judged having regard to facts of the case and evidence on record. Having regard to evidence in the present case on hand, we are of the view that both the judgments relied on by the learned counsel for the appellant, would not render any assistance in support of his case.”

8. Thus, in view of the judgment of Hon'ble Supreme Court in case of **Chamundeswari** (*supra*) the Tribunal has rightly given weightage to the evidence recorded before it and there is no error in the finding of the Tribunal as regarding happening of the accident due to rash and negligent driving of the offending vehicle by its driver.

9. Now coming to the argument of the learned counsel for the appellant-Insurance Company as regards income of the deceased as assessed by the Tribunal @ ₹30,000/- per month, the claimants have examined PW-5 Jogender, Accountant of the company in which the deceased was working. This witness has proved on record the appointment letter of the deceased as Ex.P5, copy of the bank statement of the company as Ex.P6 and attendance register of the deceased as Ex.P7. Due to the accident, the deceased died on 25.02.2022 and as deposed by PW-5 Jogender, the deceased had drawn a salary of ₹33,548/- in the month of November 2021; in December 2021 ₹31,417/-; in January 2022 ₹33,548/- and in February ₹36,694/-. Thus, the deceased was drawing a monthly salary w.e.f. November 2021 to February 2022 between ₹33,548/- to ₹36,694/- per month. However, the Tribunal has taken an average salary of ₹30,000/- per month, which in the opinion of this

Court is justified in view of the above evidence and does not call for any interference.

10. In view of the above, there is no merit in the arguments of learned counsel for the appellant-Insurance Company and the same stand rejected.

11. Accordingly, present appeal being devoid of any merit is dismissed. Pending applications, if any, also stand disposed off.

01.08.2025

jk

**(ALKASARIN)
JUGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO