



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

(134)

FAO No. 3070 of 2024 (O&M)

Date of Decision: 29.04.2025

Cholamandalam MS General Insurance Company Limited

...Appellant

Versus

Smt. Saroj Devi and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Vishal Aggarwal, Advocate
for the appellant-Insurance Company.

VIKRAM AGGARWAL, J (ORAL)

1. The Insurance Company has preferred the present appeal against the award dated 01.03.2024 passed by the Court of learned Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'the MACT').
2. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the MV Act') by the widow, two major sons and five major daughters of Krishan Lal for the grant of compensation of ₹80,00,000/- on account of the death of Krishan Lal in a motor vehicular accident which took place on 20.05.2021.
3. The case, as pleaded, was that on 20.05.2021 at about 9.00 a.m., Krishan Lal had gone from his house at village Naguran, District Jind to Bhawad on his motorcycle bearing registration No. HR-06-U-8284 to meet his relative who was unwell. At about 9.30 p.m., when he had reached near village Kandela District Jind, respondent No.9 (respondent No.1 in the claim petition) came from the opposite side on a tractor bearing registration No. HR-31-N-2292 (hereinafter referred to as the offending vehicle). As per the

averments in the claim petition, respondent No.1 was driving the offending vehicle in a rash and negligent manner and at a fast speed. It was averred that without using dippers and without slowing down even on the speed-breaker, the offending vehicle struck into the motorcycle being driven by Krishan Lal. Krishan Lal expired at the spot as a result of the injuries suffered by him in the accident, whereas respondent No.1 fled from the spot on the offending vehicle. FIR No. 202 dated 21.05.2021 was registered under Section 279, 304-A IPC. On 21.05.2021. Upon a statement having been given by one Himmat Singh, the offending vehicle was found to have been involved in the accident.

4. Krishan Lal was stated to be 59 years old at the time of his death and was said to be running an LIC Collection Centre and was also stated to be working as an agent of LIC at Jind besides being involved in the work of agriculture, dairy farming. He was stated to be earning more than ₹40,000/- per month and his gratuitous services towards the family were stated to be at the rate of ₹15,000/- per month. Accordingly, a sum of ₹80,00,000/- was claimed as compensation.

5. The claim petition was opposed by the respondents. The factum of the accident was denied by the driver and owner of the offending vehicle. All other averments were denied.

6. The Insurance Company raised its usual defences in the written statement and also denied the factum of the accident. It was averred that the offending vehicle had falsely been involved in the FIR as the FIR had initially been registered against an unknown vehicle and an unknown driver and subsequently upon a statement having been given by Himmat Singh, the offending vehicle was falsely involved.

7. From the pleadings of the parties, the following issues were framed:-

1. Whether accident in question took place due to rash and negligent driving of driver of Tractor No.HR-31N-2292 i.e. respondent No.1? OPP.
2. Whether the claimants are entitled to compensation claimed. If so, how much and from whom? OPP.
3. Whether respondents No.1 and 2 have violated the terms and conditions of Insurance Policy? OPR-3.
4. Whether respondent No.1 was not holding a valid and effective driving licence on the date of accident? OPR-3.
5. Relief.

8. Parties led their respective evidence.

9. The learned MACT allowed the claim petition. Under issue no.1, it was held that the accident as a result of which Krishan Lal had expired had taken place on account of the rash and negligent driving of the offending vehicle by its driver. As regards the quantum of compensation, the income was assessed at ₹3,12,660/- per year. 1/4th amount was ordered to be deducted on account of personal expenses. After applying the ratio of law laid down by the Supreme Court of India in case of *Sarla Verma and others Vs. The Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77* and *National Insurance Company Limited Vs. Pranay Sethi and others, AIR 2018 SC (Civil) 81*, the total compensation was assessed as ₹26,71,500/-. The driver, owner and the Insurance company were held to be jointly and severally liable to pay the compensation. 35% amount of compensation was ordered to be paid to the widow, 15% each to both sons and one unmarried daughter and 5% each to the remaining married daughters.

10. Aggrieved by the same, the present appeal has been filed by the Insurance Company.

11. The sole argument raised by learned counsel for the appellant is that initially, the FIR had been registered against an unknown vehicle and an unknown person. However, on the very next day i.e., 21.05.2021, a statement was given by Himmat Singh that he had come to know that the accident had been caused by the offending vehicle. Under the circumstances, the offending vehicle was involved. He submits that apart from Himmat Singh, there is no eye witness to the accident and Himmat Singh does not disclose as to from where he came to know that the accident had been caused by the offending vehicle.

12. I have considered the submissions made by learned counsel for the appellant.

13. Admittedly, there was no eye witness to the accident. In the FIR (Ex.P-1), which was registered on the statement of Bijender, it was recorded that the accident had taken place with an unknown vehicle which was being driven by an unknown person. However, on the very next day, statement of Himmat Singh was recorded under Section 161 Cr.P.C., in which he disclosed that the offending vehicle was involved in the accident. Himmat Singh appeared in the witness box as PW-2 and deposed about the same. Nothing came in his cross-examination which could have caused any dent to case of the claimants. No doubt he stated that he could not tell the name of the person who told him about the involvement of the tractor. However, this alone would not be sufficient to conclude that the vehicle had been wrongly involved because many time people don't want their name to be disclosed. It has come on record that the matter was investigated by the Police and Final

Report under Section 173 Cr.P.C., was filed, the trial, though, is still stated to be pending. The learned MACT came to the conclusion that since PW-2-Himmat Singh had not faltered in his cross-examination and keeping in view the other circumstances, collusion did not stand proved. Under the circumstances, it was held that the accident had been caused due to the rash and negligent driving of the offending vehicle by its driver. It has to be borne in mind that the MV Act is a welfare legislation and strict rules of evidence are not applicable. Once the statement of a witness is found to be reliable and trustworthy, further corroboration is seldom required.

14. In view of the above, I do not find any illegality in the said award or in the said finding warranting interference.

15. That being so, the present appeal is found to be devoid of merit and is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

April 29, 2025

Rekha

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