



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

**FAO-4174-2011 (O&M)
Date of Decision: July 30, 2025**

Sarla Devi and others

...Appellants

VERSUS

Tirlok Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Jasbir Mor Advocate
for the appellants.

Mr.Anand Singh, Advocate
for respondent No.2.

Mr.Vinod Gupta and Mr.Didar Singh, Advocates
for respondent No.3.

ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, assailing the denial of compensation vide impugned judgment dated 23.03.2011 passed by learned Motor Accident Claims Tribunal, qua death of Gulab Singh, in a motor vehicular accident.

The essential facts, vis-a-vis, taking place of the accident, are as follows:-

That, 29.04.2009 at about 8.30 p.m., Gulab Singh along with Bijender Singh and Subhash was going to his village Ghimana from Jind, on motorcycle bearing registration No.HR-31C-4597, which was driven by

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Subhash. When they reached in the area of Budha Baba Basti, Bhiwani Road, Jind, then respondent No.1-Tirlok Singh, came from the Bhiwani side, while driving trailer bearing registration No.MH-04CA-8117, in a rash and negligent manner and struck his trailer. The occupants of the motorcycle fell on the road and sustained injuries. Ultimately, Gulab Singh had succumbed to his injuries on 23.05.2009.

Also, it is categoric claim of the appellants-claimants that the accident had taken place, due to rash and negligent driving of trailer bearing registration No.MH-04CA-8117, driven by respondent No.1-Tirlok Singh. Various other facts were pleaded, with regard to the age of the deceased, his vocation and the expenditure incurred on his treatment.

Respondent No.1, in his reply, had denied about the taking place of the accident thereby involving trailer bearing registration No.MH-04CA-8117 and also asserted about himself to have been falsely implicated in the present case. Likewise, respondent No.2, also had taken the similar pleas. Respondent No.3-insurance company had also asserted about no such accident to have taken place, on the alleged date, time and place and even vehicle and driver's name, is not mentioned in the FIR. There is also delay in lodging of the FIR. Moreover, in the FIR, alleged date of accident is mentioned as 24.04.2009 and FIR was got registered on 30.04.2009, whereas, in the claim petition, the date of accident is mentioned as 29.04.2009.

The insurance company also asserted that the motorcycle is meant for two persons, but there were three occupants, of the alleged motorcycle, at the relevant time and it was being plied in contravention of the terms and



conditions of the insurance policy, as well as rules of Motor Vehicles Act. Even, driver of the trailer was not holding effective and valid driving licence.

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

- “(1) Whether the accident in question has occurred due to rash and negligent driving of respondent no.1 Tirlok Singh, while driving trailer no.MH-04CA-8117, on 29.4.2009 in the area of Buda Baba Basti, Bhiwani road, Jind at 8.30 P.M. resulting into causing the death of Gulab Singh son of Ram Niwas, as alleged? OPP*
- (2) Whether petitioners are entitled for compensation and if yet, from whom and to what amount? OPP*
- (3) Whether respondent no.1 was not holding the valid and effective driving licence at the time of alleged accident, if so its effect? OPR-3*
- (4) Relief.”*

To substantiate their claim, claimant No.1-Sarla Devi, herself stepped into witness box as PW-1 and further also examined, PW-2 Ram Niwas, father of deceased, PW-3 Dr.B.L.Bagri, Medical Superintendent, PW-4 Manish Malik, Criminal Ahlmad, PW-5 Bijender Singh and PW-6 ASI Rishi Raj, Investigating Officer. Thereafter, evidence was closed after tendering into evidence certain bills and report. To rebut the claim, the respondents tendered into evidence certain documents.

On appraisal of the evidence, brought on record, learned Tribunal had concluded that it cannot be accepted that the alleged trailer was involved in the accident in question and hence, issue No.1 as well as other issues, were decided against the appellants-claimants and consequently, vide



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impugned judgment, the claim petition was dismissed with costs.

Being aggrieved by the findings recorded by learned Tribunal, the appellants-claimants have filed the present appeal.

Upon notice issued, the contesting respondents made appearance.

Learned counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the appellants-claimants that learned Tribunal had not appraised the evidence in correct perspective and had erroneously concluded about the accident to have never taken place, on the date as well as in the manner, as asserted by the appellants-claimants and there was no involvement of trailer bearing registration No.MH-04CA-8117, in the accident in question. Also, it is submitted that both the widow of the deceased as well as father of deceased, have categorically deposed about the death of Gulab Singh, in a motor vehicular accident. Even, various documents proved by way of examination of PW-4 Manish Malik, Criminal Ahlmad and PW-6 ASI Rishi Raj, investigating officer, do amply establish that a case was registered, on account of accident having taken place, due to rashness and negligence, on the part of respondent No.1-Tirlokh Singh, while driving trailer bearing registration No.MH-04CA-8117. Moreover, the treatment undergone, on account of injuries sustained in the accident, also stand amply established from the medical evidence, proved by PW-3 Dr.B.L.Bagri.

In the light of the same, it is submitted that Gulab Singh had died on 23.05.2009, on account of injuries sustained in the accident in question. Hence, it is submitted that appeal be allowed, while reversing the findings



on all the issues and consequently, the claim petition be accepted.

On the other hand, learned counsel for the respondents have refuted the claim of the appellants. In fact, it is submitted that learned Tribunal has very meticulously considered the testimonies of PW-1 Sarla Devi and PW-2 Ram Niwas and has correctly concluded about the aforesaid witnesses, as admitted by them in the cross-examination, about having not witnessed the accident in question. Also, it is submitted that the version of the accident, has to be established on the principle of probabilities. However, the testimonies of the examined witnesses, do not pass through aforesaid test satisfactorily. In fact, it is submitted that even though, the Investigating Officer has been examined in the present case, but however, connectivity of the trailer as well as incriminating role assigned to Tirlok Singh, is not established. Precisely, on this account, the version of the appellants-claimants has been correctly discarded by learned Tribunal. As such, a prayer has been made for the dismissal of the appeal.

In the light of the submissions aforesaid, it is pertinent to mention that the proceedings under the Motor Vehicles Act are summary proceedings and the Tribunal is required to examine the case on the preponderance of probabilities and should never insist upon proving the case on strict standard of proof i.e. beyond all reasonable doubt. However, basically the test is, whether a prudent man, under the peculiar circumstances of the case, shall assume the existence of a certain fact, as true or disbelieve it. The anvil of testing “**proved**” “**disproved**” and “**not proved**” as provided under the Indian Evidence Act, is same in both civil as well as criminal cases, which is that of a prudent man. However, learned



Tribunal is required to test every evidence in the backdrop of the three aforesaid clauses, before relying upon the same.

Thereupon, it has to see, as to whether the evidence, brought on record by the claimants, do convince the Court of preponderance of probabilities, in his favour. However, the burden is always upon the claimants to prove the foundational facts of the case and bring evidence, of all the facts, which he relies upon to convince the Court that in the mind of a reasonable man, such facts should be believed to be true. It is only, thereupon, the doctrine of preponderance of probabilities will come into picture and the Court after being reasonably satisfied, will not demand strict proof of evidence or any further evidence, to prove the same fact, in case of civil proceedings. The preponderance of probability is based on the principle that the test of a prudent person, who acts under the supposition that a fact exists, in the context and circumstances of a particular case.

In this backdrop, with the able assistance of the counsel for the parties, this Court has gone through the testimonies of PW-1 Sarla Devi and PW-2 Ram Niwas as well as other witnesses. Both the aforesaid witnesses have deposed in consonance with the pleaded case and had imputed rashness and negligence, on the part of respondent No.1-Tirlokh Singh, who was driving the alleged trailer, at the relevant time. However, it is pertinent to mention that both the aforesaid witnesses, in the opening line of cross-examination, have stated that they have not witnessed the accident in question.

Not only this, further it is pertinent to mention that it is a categorical claim that the accident had taken place on 29.04.2009. Even though, learned

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Tribunal had concluded that in the FIR, the date of accident has been mentioned as 24.04.2009, but however, this observation has been erroneously made. The copy of the FIR has been proved through PW-4 Manish Malik as Ex.P6 and it is mentioned therein that accident had taken place on 24.04.2009, but however, it is not singularly this document, which has to be taken into consideration. The report under Section 173 Cr.P.C. has also been proved as Ex.P7. Perusal of the same reveals that in the facts reproduced in the same, categorically states, about the date of accident to be 29.04.2009. Even, statement of Bijender Singh as reproduced in the report under Section 173 Cr.P.C., states that it was on 29.04.2009, when they were proceeding on the motorcycle and further, stated about the taking place of the accident. Statement of Bijender Singh got recorded by the police has also been proved as Ex.R1, wherein, date is stated as 29.04.2009.

When all the aforesaid documents are taken into consideration, in unison and more particularly, considering the testimony of PW-3 Dr.B.L.Bagri, it stands established that in fact, the accident had taken place on 29.04.2009. However, on account of computer error, the date has been mentioned as 24.04.2009 in Ex.P6. This probably is a typographical error and therefore, it cannot be accepted that there is difference in the date, which raises doubt qua the version of the claimants, about the date of taking place of the accident.

Even if, the date of accident is taken as 24.04.2009, but it was, on the part of the claimants, to establish the involvement of the trailer bearing registration No.MH-04CA-8117, in the accident and that it was driven by Tirlok Singh, at the relevant time. It is significant to note that in



the FIR, Bijender Singh, author of the FIR, had stated about the accident to have taken place with the trailer, but no number of trailer or name of the driver, as such, was spelt out, in the FIR. Said Bijender Singh had stepped into witness box as PW-5. In his affidavit Ex.PW5/A, he had stated about the driver of the trailer to have fled away along with the trailer, from the place of accident. He never stated about the manner, in which Tirlok Singh was nominated as accused.

In the given circumstances, it is important to make reference to the report under Section 173 Cr.P.C. Ex.P7. Close perusal of the same reveals that therein, it is only stated that during the course of investigation, on 20.06.2009, Tirlok Singh was nominated as accused, on the basis of the material, coming forth. However, there is total silence about the manner of collection of the incriminating evidence against Tirlok Singh, on the basis whereof, he was nominated as accused. No satisfactory reason is assigned therein.

In the light of the same, perhaps, the Investigating Officer would have been the best person to straighten the things. Even though, the Investigating Officer ASI Rishi Raj has been examined as PW-6 and he categorically stated about having investigated the criminal case, relating to FIR No.276 dated 30.04.2009, but however, in his examination-in-chief, he did not state a word about the manner in which, Tirlok Singh was nominated as accused. Simply, he had stated that he recorded statement of the witnesses under Section 161 Cr.P.C. and had prepared the report under Section 173 Cr.P.C. against respondent No.1-Tirlok Singh, copy whereof is Annexure P-7.



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Things would have also been different, had the statement under Section 161 Cr.P.C. of the various witnesses recorded, being proved by the Investigating Officer, which could spell about the incriminating role of Tirlok Singh, but however, no such statements have been proved. The Investigating Officer had not stated a word relating to the same.

In the light of the same, even though, as emphasized by learned counsel for the appellants-claimants that Tirlok Singh is facing criminal trial qua the accident, as per documents proved by PW-4 Manish Malik, Criminal Ahlmad, but however, simply on the score of trial being faced by Tirlok Singh, does not *ipso facto*, lead to the conclusion about the accident to have taken place, due to his rashness and negligence. It was incumbent upon the appellants to have independently prove about the rashness and negligence, but however, the appellants-claimants have failed to satisfactorily establish the involvement of trailer bearing registration No.MH-04CA-8117 and also failed to establish rashness and negligence, imputed upon respondent No.1- Tirlok Singh.

Thus, the findings recorded by learned Tribunal on all the issues are hereby affirmed and the consequential dismissal of the claim petition, does not call for any interference.

Hence, the present appeal sans merit and is hereby dismissed.

July 30, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No