



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

201

FAO-2468-2001

**Judgment Reserved on 05.08.2025
Judgment pronounced on 20.08.2025**

SHAKUNTALA DEVI AND OTHERS**... APPELLANTS****VERSUS****BITTU AND OTHERS****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. I.S. Kooner, Advocate for
Mr. Manish Gupta, Advocate
for the appellants.

Mr. Vinod Chaudhri, Advocate
for the Insurance Company.

PARMOD GOYAL, J. (ORAL)

1. Claimants are aggrieved by dismissal of their claim petition vide impugned judgment dated 15.01.2001 passed by Motor Accident Claims Tribunal, Hoshiarpur. The Tribunal had concluded that death of deceased on 09.08.1999 after having received injuries on 05.08.1999 was not on account of injuries in the accident. Rather, the cause of death was cardiopulmonary arrest due to embolism.
2. The case set up by the appellants was that on 05.08.1999 at about 8.15 a.m., the deceased Naresh Kumar was standing on the Katcha Path on the bus stand waiting for bus and in the meanwhile, Bittu, driver of the vikram three wheeler bearing Registration No. PB-07-G-7432 came and its driver started moving three wheeler in reverse gear in rash and negligent manner without caring for the persons standing behind and hit deceased with full force, resulting in injuries. The deceased taken to Handa Nursing Home, Mahilpur where after x-ray



of hip joint, fracture of neck femur left side was found and he was referred to Bharaj Nursing Home, Hoshiarpur. At Bharaj Nursing Home, Hoshiarpur, Dr. Rachhpal Singh suggested hip surgery. On 06.08.1999 deceased was admitted to Mata Koulan Ji Mission Hospital, Amritsar and was operated on 07.08.1999 for replacement of hip joint. However, he died on 09.08.1999. The cause of death was stated to be cardiopulmonary arrest due to embolism.

3. Admittedly, no postmortem was carried out to find out cause of death. Appellants had duly examined treating doctors i.e. Dr. Roshan Lal Handa as AW-3, Dr. Rachhpal Singh as AW-5, Dr. Anupam Ahuja as AW-7. Learned Tribunal after appreciating evidence of doctors and facts placed by claimants concluded that death of deceased was not attributable to accident dated 05.08.1999 and have decided issue Nos. 1 and 5 against the appellants.

4. Learned counsel for the appellants has argued that learned Tribunal has erred in not appreciating evidence of doctors AW-3, AW-5 and AW-7 and cause of death which is duly established on record. It is asserted that the heart failure was attributable to injuries suffered by the deceased. Therefore, in order to decide present appeal, it is asserted that evidence of doctors AW-3, AW-5 and AW-7 as well as cause of death established on record i.e. cardiopulmonary arrest due to embolism, needs to be appreciated.

5. Dr. Roshan Lal Handa AW-3 stated in his evidence that the deceased was brought to his clinic on 05.08.1999 at about 8.30 a.m. with multiple injuries. He conducted X-ray of hip joint, which showed fracture of neck of femur of left side. He duly placed the X-ray report as Ex.-A-3 and X-ray film Ex. A-4. He further stated that he had referred the patient to Dr. Rachhpal Singh. He also opined that injury could be caused due to accidental fall if a person is hit by moving vehicle. He further opined that injury could not be caused if a person



himself falls on the road. In his cross examination, he denied suggestion that he was not qualified to conduct X-ray and X-ray was not conducted by him or he had prepared false X-ray report. Dr. Rachhpal Singh AW-5 in his evidence also asserted that on 05.08.1999 deceased aged about 50 years was brought to his hospital with history of fracture of neck left side. He had advised replacement of hip joint, however, attendant of patient did not accept his advise and went to some other Nursing Home. In his cross examination, he opined that after replacement of hip joint, patient is kept for two weeks as indoor patient. He further opined that possibility of injury being caused by fall from moving door of the bus, cannot be ruled out. He also asserted that in routine, this type of injury to the hip joint is non-fatal. AW-7 Dr. Anupam Ahuja asserted that deceased Naresh Kumar was admitted in their hospital on 06.08.1999 with history of fracture neck femur left side (hip joint). His operation of hip joint was performed on 07.08.1999 but due to complications, injured expired in hospital on 09.08.1999, due to cardiopulmonary arrest due to embolism. He duly placed on record death certificate giving reasons of death as Ex. A9. In his cross examination, he stated that he had not performed the surgery himself. He had brought ECG chart and stated that heart was functioning normal and patient was having slight hypertension. Pulse was normal and his vital organs were functioning normally. He also admitted that if patient is having hip joint fracture then there is no chance of death. He admitted that postmortem examination on the body of deceased was not conducted. He, however, opined that cause of death was due to after surgery complications. He denied suggestion that patient had died a natural death.

6. After referring to above-noted evidence led by appellants, learned counsel for the appellants on the one hand argued that it is not necessary that postmortem report has to be conducted in order to establish death attributable to



accident. He asserts that in absence of postmortem report from evidence of doctors/other material, death can be shown to be attributable to accident. He also argued that it is not necessary to show death to be direct consequence of accident and if a death has occurred or was accelerated due to injuries suffered due to the accident, the death would be attributable to the accident.

7. On the other hand, learned counsel for the respondent-Insurance Company argued that learned Tribunal has rightly held that death was not attributable to accident as no postmortem report was conducted and mere hip injury or hip replacement cannot result in death.

8. Pulmonary embolism (PE) is usually described as blood clot in artery which carries blood from the heart. Cardiopulmonary arrest can be a consequence of pulmonary embolism, a condition where blood clots block arteries in the lungs. A blockage leads to increase in pressure in the right ventricle of the heart leading to reduced blood flow to the left side of heart and ultimately circulatory collapse. AW-7 has stated death to be result of complication due to hip replacement surgery on account of injuries suffered in accident. Therefore, the question would be whether hip replacement surgery can cause pulmonary embolism, resulting into cardiopulmonary arrest. No evidence has been led by respondents. Cases under Motor Vehicle Act ought to be decided on the touch stone of standard of proof i.e. preponderance of probabilities.

9. As per the Indian General of Chemical anesthesia, lower limb fractures and surgeries are high risk situations for the development of deep vein thrombosis and pulmonary embolism. If the evidence of claimants-appellants is read with opinion of Indian General of Chemical anesthesia, especially when Dr. Anupam Ahuja AW-7 has clearly attributed death to be result of complication during surgery, the only conclusion which can be drawn in the facts and



circumstances of the present case is that death was on account of complication in treatment on account of injuries suffered in the accident.

10. In '*National Insurance Co. Ltd. Vs. Anthony (since deceased) & Ors. 2015 ACJ 2392*', '*Jogendra Chandra Kar Vs. Haradhan Saha 2007 (54) R.C.R. (Civil) 947*', '*New India Assurance Co. Ltd. Chennai Vs. R. Santhi & Ors. 2013 (5) R.C.R. (Civil) 572*', '*Oriental Insurance Co. Ltd. Vs. Smt. H.D. Indiramma & Ors.*' 2016 ACC 1032, '*National Insurance Company Ltd. Vs. Satya Devi & Ors.*' 2017 ACC 279 and '*Jothi & Ors. Vs. Viruthasarani & Ors. 2007 (2) T.N.M.A.C. 371*' it has been repeatedly held that postmortem is not mandatory to conclude cause of death and it has also been held that use of vehicle need not necessarily be the immediate cause of death or bodily injuries suffered. As long as there is some causal relationship between the death that has occurred and bodily injuries suffered, same will be sufficient to make claimant entitled to receive compensation.

11. In '*Jothi & Ors. Vs. Viruthasarani and others (2007) (2) T.N.M.A.C. 371*' Madras High Court had considered cause of death on account of cardiac arrest due to pulmonary embolism and had concluded that fat embolism usually occurs when long bones are fractured and the resultant reaction of the body in sending fragments of fat to heal that particular portion of the bone which is released through the bloodstream, may sometimes get embedded in the lungs leading to this respiratory arrest.

12. Accordingly, finding of learned Tribunal regarding cause of death cannot be sustained, it is held that deceased had died on account of accidental injuries in accident dated 05.08.1999.

13. In view of the above, issue Nos. 1, 2 and 5 are accordingly decided in favour of claimants-appellants and against the respondents. Learned counsel



for the Insurance Company could not show any fault with the finding on issue No. 3 recorded in favour of claimants, the same is upheld. Similarly, findings of issue No. 4 also needs no change as learned Tribunal has correctly dealt with the issue and held that claimant's wife entitled to compensation being wife of the deceased. Accordingly, findings of learned Tribunal on issue Nos. 1, 2 and 5 are reversed and it is held that deceased had died on account of accidental injuries suffered in accident dated 05.08.1999 and is entitled to compensation. Findings of issue Nos. 3 and 4 recoded by learned Tribunal are upheld. Next question which arises is as to what compensation is payable to claimant, however, no finding has been given by learned Tribunal in this regard.

14. Accordingly, on the limited question of quantum, present appeal is remanded to Tribunal with a direction to quantify compensation as per evidence led by the parties.

15. Appeal is allowed in above terms. MACT case is remanded to learned Tribunal for determining quantum of compensation as expeditiously as possible.

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

20.08.2025
manoj

(PARMOD GOYAL)
JUDGE

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