



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-595-2006 (O&M)
Reserved on 11.07.2025
Date of Decision: 22.08.2025

RUCHI AND OTHERS

.....Appellants

Vs.

VIKAS SHARMA AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Ashok Kumar Sharma, Advocate and
Ms. Suman Sharma, Advocate
for the appellants/claimants.

Mr. R.C. Kapoor, Advocate
for the respondent/Insurance Company.

* * * *

SUDEEPTI SHARMA J. (ORAL)

1. The case is listed before this Court for referral to the “Special Mediation Drive-Mediation ‘For the Nation’ List”.
2. Learned counsel for the parties contend that the matter cannot be referred to Mediation and Conciliation Centre of this Court.
3. In view of above, with the consent of the parties the appeal is taken up for hearing today itself.

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4. The present appeal has been preferred against the award dated 24.11.2005 passed in the claim petition filed under Section 166/163A of the



Motor Vehicles Act, 1988 (for short 'the Act') by the learned Motor Accident Claims Tribunal, Faridabad (for short, 'the Tribunal') vide which the claim petition filed by the appellants/claimants, who are the legal heirs of the deceased-Suresh Kumar, was dismissed.

FACTS NOT IN DISPUTE

5. The brief facts of the case as mentioned in the claim petition are that on 21.5.2004, Suresh Kumar Bhardwaj after doing his job was returning to his home on scooter bearing registration No.HR-35-A-4495. When he reached near Ajronda Chowk, a Car bearing registration No.HR-29-J-6600 (hereinafter referred to as 'offending vehicle'), came from behind at a high speed being driven by Hari Dev in a rash and negligent manner. The car dashed into scooter of Suresh Kumar Bhardwaj. Resultantly, Suresh Kumar Bhardwaj sustained fatal injuries and died at the spot. The matter was reported to the police, whereupon, FIR was registered regarding the accident.

6. Upon notice of the claim petition, respondents appeared and filed their separate written replies denying the factum of accident/compensation.

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

1. Whether the accident which took place on 21.5.2004, at about 11.00 P.M. near Ajronda Chowk P.S. Central Faridabad, has occurred due to rash and negligent driving of Car No.HR-29-J-6600 by Hari Dev, respondent No.2? OPP

2. If issue No.1 is decided in favour of petitioners to what amount of compensation petitioners shall be entitled to and from whom? OPP



3. *Whether petition is not maintainable in present form, for lack of cause of action? OPR*

4. *Whether respondent No.2 was not holding valid and effective DL at the time of accident ? OPR-3*

5. *Relief.*

8. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim-petition. Hence, the claimants/appellants filed the present appeal for grant of compensation.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

9. Learned counsel for the appellants *inter alia* contends that the claim petition was dismissed on the ground that the appellants-claimants were not able to prove the involvement of the vehicle and rash and negligent driving on the part of the driver of the offending vehicle, therefore, he prays that present appeal be allowed.

10. Per contra, learned counsel for the respondent-Insurance Company contends that the appellants were not able to prove the involvement of the vehicle and FIR was registered against unknown vehicle and driver, therefore, he prays for dismissal of the appeal.

11. I have heard learned counsel for the parties and perused the whole record of this case.

12. The relevant portion of the award is reproduced as under:-

ISSUE NO.1.

10. That in order to prove this issue petitioners got examined PW-20. Vishambher, he stated that FIR No.151 dated 22.5.2004, under Sections 279, 304A IPC was recorded on statement of Om Parkash. Challan against Hari Dev Sharma was filed in court. He proved on record copy of FIR as Ex.PC. PW-4 Om Parkash stated that on 21.5.2004, he was coming from Delhi at about 10.00 PM.



He stepped down from bus at Ajrona Chowk, in the meantime he saw one Maruti car hitting a scooterist and fleding away. Kailash Bhai told him registration number of Maruti car No. HR-239-J-6600. Some Hawker weze saying that one person which mustaches had caused accident. The scooterist was on scooter No.HR-35-A-4495 of Suresh Kumar Bhardwaj. The accident was caused due to rash or negligent driving of car. He made statement to the police. On basis of said statement FIR No.151 dated 25.5.2004, was recorded. During Investigation police had recorded his supplementary statement Mark A. PW6 Bijender stated that about one year back he was going from Nehru ground to Ballabgarh at about 10/11 P.M., when he reached near T-point at Ajrona Chowk, he saw a Maruti Car No.HR-29-J-6600, hitting a scooter. The driver of car was having mustaches. After hitting scooter car fled away. He tried to chase the car but of no use. Accident was caused due to rash or negligent driving of car No.HR-29-J-6600. After about 10/15 days of accident, police had recorded his statement. PW-5 Dr.B.D.Pathak, testified having conducted post mortem on dead body of Suresh Kumar Bhardwaj. He proved on record attested copy of post mortem report an Ex.PD.

11. That by referring to above said oral and documentary evidence, ld. counsel for petitioner submitted that petitioners have discharged their onus of proof.

12. That on the contrary ld. counsel for respondent No.3 got examined RW-1 Sh. Gagandeep, Record Keeper of Escorts Hospital, Faridabad. He stated that in column of date and time brought to Escorts Hospital, Faridabad it was mentioned 21.5.2005, at about 12.35 A.M. After cutting it was mentioned as 11.35 P.M. The information



on MLC were of carbon paper writing whereas cutting of correction was with original pen. He proved on record copy of record as Ex.R-6.

13. Ld. counsel for respondent No.3 firstly referred to copy of FIR Ex.PC and submitted that the FIR does not mention type, colour, registration number of vehicle and name of driver. So, FIR is against unknown vehicle and driver. The FIR has been recorded on statement of PW-4 Om Parkash. Through Mark -A supplementary statement Om Parkash had given the registration number of car on the basis of information from Bijander Singh. The supplementary statement Mark A was made on 15.6.2004 after lapse of 24 days. PW-4 Om Parkash in his cross-examination stated that he had given registration number of Maruti Car as was disclosed to him by Kailash son of Jagdish. He also admitted himself to be distant relative (brother in law) of Suresh Kumar Bhardwaj. He also admitted that when he got down at Agronda Chowk, the accident had already taken place. Secondly, ld. counsel referred to cross-examination of PW-6 Bijender, he stated that police had recorded his statement after 15 days. He had gone to Police Station alone. He had not disclosed the number of car to any one except police. Ld. Counsel referred to Ex.R-2, statement of PW-6 Bijender Singh under Section 161 Cr.P.C. dated 15.6.2002, wherein he had given the number of car and name of driver. Thirdly, Id. counsel referred to cross examination of PW-5 Dr.B.D.Pathak wherein he admitted that cuttings in columns of hours of death. He admitted that the cuttings were not in official record. The copy of official record was placed on record as Ex.R-1. In this content Ld. counsel referred to statement of PW-2 Gagandeep-Record Keeper. By referring to above said oral and documentary evidence ld. counsel for respondent No.3 submitted that



present case was falsely planted on respondents. Therefore, issue No.1 deserves to be decided against the petitioner and in favour of respondents.

14. That from examination of record especially abovesaid oral and documentary evidenced, it is crystal clear in the first place that as per FIR Ex.PC the accident had occurred on 21.5.2004, at about 11.00 P.M. at Ajronda Chowk due to rash or negligent driving of unknown vehicle, by unknown driver. It is a fact that FIR was recorded on statement of PW-4 Om Parkash son of Nand Singh. It is a fact that on the basis of Mark-A, supplementary statement under Section 161 Cr.P.C. dated 15.6.2004, Car No.HR-29-J-6600 has been involved. As per supplementary statement, the detail of car and Haridev, respondent No.2 were on the basis of information supplied by Bijender Singh. From bare perusal of Ex.R-2 statement of PW-6 Bijender Singh under Section 161 Cr.P.C. dated 13.6.2004, vehicle No. and driver has not been mentioned. In the second place, PW-4 Om Parkash, in his cross examination had stated that he was relative of Suresh Kumar Bhardwaj. He also stated that before his getting down at Ajronda Chowk, the accident had already taken place.He further stated that he had come to know about the car from Kailash. Then he went to police after 2/3 days and then his statement was recorded. PW-6 Bijender Singh in his statement said that he had witnessed the accident by car, he had chased the car, but he gave car no. to police after 10/15 days of accident. PW-6 Bijender Singh in his cross-examination submitted that he had gone to the police and had given the car number and none else. It is a material fact that both the supplementary statement of Om Parkash Mark A and statement of Bijender Singh Ex.R-2 were recorded by police on 15.6.2002. After lapse about 29 days. Hence are



unworthy of reliance. That in the third place in light of above, it crystal clear that petitioners have miserably failed to bring on record any cogent best direct evidence regarding the factum of accident having been caused by Car No.HR-29-J-6600, driven by Hari Dev, respondent No.1. The real source of information regarding the involvement of the vehicle has not been brought on record. Therefore, it is sufficient to hold that petitioners have failed to prove that the death of Suresh Kumar was caused in a motor vehicular accident which occurred on 21.5.2004 at about 11.00 P.M. near Ajronda Chowk, due to rash or negligent driving of car No.HR-29-J-6600, by Hari Dev. Hence, issue No.1 is decided in favour of respondents and against petitioners.

13. Upon a careful reading of the impugned award, it is apparent that the learned Tribunal fell into error in concluding that the claimants/appellants failed to establish that the accident in question occurred due to the rash and negligent driving of the offending vehicle by its driver, Hari Dev (respondent No.2 herein).

14. The contention of learned counsel for respondent-Insurance Company that the FIR was against an unknown vehicle and driver is devoid of merit. In road accidents, particularly those occurring at night or where the driver along with offending vehicle flees, it is not uncommon that FIR is registered initially against an unknown vehicle. What is material is whether subsequent investigation reasonably fixes the identity of the vehicle and driver.

15. In the present case, supplementary statements were recorded and, upon investigation, a challan was filed against respondent No.2. This Court in **FAO-2603-2007, titled as "Rajbir Singh Vs. Ram Bhagat and**



another, **decided on 30.04.2025**, clarified that an FIR naming an “unknown” vehicle initially does not defeat a claim if subsequent investigation and evidence reveal the identity of the vehicle and driver. The relevant extracts of the same is reproduce as under:-

“12. The Tribunal has erroneously placed undue emphasis on the fact that the FIR (Ex. P11), lodged on the very date of the occurrence, did not initially disclose the identity of driver or registration number of the offending vehicle. It is trite law that in cases involving motor accidents, particularly those resulting in serious bodily injuries, it is not uncommon for the victim to be unaware of the particulars of the offending vehicle at the initial stage. The law does not require the FIR to be a comprehensive narrative, nor does it mandate precise identification of the vehicle and driver at the inception. The purpose of the FIR is to set the criminal law into motion, and any subsequent identification emerging from investigation is legally sufficient to establish the involvement.

13. Indeed, the investigative process undertaken by the police culminated in the filing of a charge-sheet against respondent No.1, Ram Bhagat, under Sections 279, 338, and 427 IPC. PW-2, Mukesh Kumar, the Criminal Ahlmad from the Court of the Additional Chief Judicial Magistrate, Hisar, categorically proved that charges have been framed against respondent No. 1 in the said criminal case and the matter is pending trial. He also proved on record the FIR (Ex. P11), the mechanical inspection reports of both motorcycles (Ex. P12 and Ex. P13), the registration certificate of the offending vehicle



(Ex. P14), the driving licence of respondent No.1 (Ex. P15), and the site plan (Ex. P16). This documentary corpus, when read in conjunction with the oral evidence, clearly establishes the nexus between the accident and the rash and negligent act of respondent No.1.”

16. A perusal of the record further reveals that PW-4 Om Parkash deposed that upon alighting at Ajronda Chowk, he saw a Maruti car hitting scooter and fleeing. He also stated that the registration particulars were disclosed at the spot. PW-6 Bijender Singh corroborated this version by specifically deposing that he saw Maruti car No. HR-29-J-6600 colliding with the scooter and that the driver, having moustaches, fled the spot. PW-4 Om Parkash even attempted to chase the vehicle.

17. The mere fact that PW-4 Om Parkash was related to the deceased does not render his testimony unreliable, particularly when it stands corroborated by PW-6, and by the contemporaneous medical evidence.

18. PW-5 Dr. B.D. Pathak proved the post-mortem report (Ex.PD), which established that the death of the deceased was on account of injuries sustained in a road accident.

19. Once the appellants had led cogent evidence by way of FIR, post-mortem report, ocular testimony, and proof of challan against respondent No.2, the burden shifted upon the respondents to dislodge this evidence. Neither the owner nor the driver stepped into the witness box to deny involvement of the vehicle or to give any alternate version. The non-appearance of the driver and owner invites an adverse inference.



20. It is transpired from the record that learned Tribunal misapplied the standard of proof by approaching the case as a criminal trial. The law is well-settled that in MACT proceedings, the degree of proof required is only that of preponderance of probabilities. The Hon'ble Supreme Court in **Bimla Devi v. Himachal Road Transport Corporation, (2009) 13 SCC 530**, held that strict proof of an accident as required in criminal cases is not necessary in claim petitions and that once there is *prima facie* material, the Tribunal should decide on probabilities. Similarly, in **Sunita v. Rajasthan State Road Transport Corporation, (2020) 13 SCC 486**, the Apex Court reiterated that standard of proof in accident claim cases is not beyond reasonable doubt but merely on balance of probabilities.

21. On an overall appreciation of the evidence, this Court is satisfied that the appellants have successfully established that the accident dated 21.05.2004 resulting in the death of Suresh Kumar Bhardwaj was caused due to the rash and negligent driving of Maruti car No. HR-29-J-6600 by respondent No. 2-Hari Dev.

22. In view of the above, the finding of the learned Tribunal on issue No.1 is set aside. The issue is decided in favour of the appellants-claimants and against the respondents.

23. The learned Tribunal failed to render any finding on Issue Nos. 2 and 3. These issues require adjudication based on further evidence. Consequently, the matter is remanded to the Tribunal for fresh adjudication of these issues. The Tribunal is directed to decide the same within two months on day-to-day basis from the date of receipt of copy of this judgment.



24. The appeal is allowed. The matter is remanded for further adjudication on issue No.2 and 3.

25. Parties are directed to appear before the learned Tribunal on 17.09.2025.

26. Pending applications, if any, also stand disposed of.

August 22nd 2025

Ayub

**(SUDEEPTI SHARMA)
JUDGE**

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