



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

**FAO-1462-2010 (O&M)
Date of Decision: September 03, 2025**

Rajwant Kaur and others

...Appellants

VERSUS

Sukhvinder Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Gaurav Chopra, Advocate,
for the appellants.

Mr.V.K.Sandhir, Advocate
for respondents No.1 and 2.

Mr.Vinod Gupta, Advocate
for respondent No.3.

ARCHANA PURI, J.

The appellants-claimants have filed the present appeal, thereby, assailing the judgment of dismissal of the claim petition filed to seek compensation, on account of death of Baljinder Singh, in a motor vehicular accident, which took place on 25.08.2008.

The material facts to be noticed are that on 25.08.2008, Baljinder Singh was going from Golden Temple, Amritsar, to the place of his posting at Faridkot, on the correct left hand side of the road, at a moderate speed. Gurdial Singh and Jota Singh were following his motorcycle, while on separate motorcycle. When they reached near

electricity power house, within the area of village Balechak, then fuel from the oil tank of motorcycle of Baljinder Singh had reached at a reserve level, as a result whereof, the motorcycle had stopped there and as Baljinder Singh had to go at a long distance, therefore, after putting his motorcycle on reserved fuel, he turned back his motorcycle for taking fuel from petrol pump at Balechak. Jota Singh also followed him from electricity power house to petrol pump. At that time, both the motorcycles were being driven on the correct left hand side of the road, at a moderate speed and the distance between both the motorcycles was about 30 yards.

One bus bearing registration No.PB-02T-9975 belong to M/s Chohla Sahib Bus Service, came from the opposite side, when both the motorcycles were going from Tarn Taran side to Amritsar side and reached near petrol pump of village Balechak, at about 2.00 p.m. The aforesaid bus was being driven in rash, negligent and zig-zag manner by respondent No.1-Sukhvinder Singh. Even though, looking at the manner of driving of the bus, Baljinder Singh and Jota Singh had taken their motorcycles on extreme katcha portion of the road on the correct left hand side. However, the offending vehicle, after leaving its correct side, went towards extreme wrong side of the road on katcha portion and the bus struck against the motorcycle of Baljinder Singh, as a result whereof, he had sustained injuries. He was immediately taken to Amandeep Hospital, Amritsar, where he died on the same day, on account of the injuries sustained in the accident in question.

Also, further it was asserted that Baljinder Singh was 27 years old, at the relevant time. He was employed with Indian Reserve Border Police as Constable with 5th Ballation, Amrtisar and he was deployed as security guard at State Bank of Patiala, Faridkot and he was getting salary of Rs.11,000/-

per month. Furthermore, it was asserted that all the claimants were dependent upon the earnings of the deceased.

In pursuance of the notice issued, respondent made appearance and filed their respective replies. Respondents No.1 and 2, in their reply, had denied about the alleged accident. The ownership of the vehicle was admitted by respondent No.2 and it was also pleaded that Baljinder Singh was having a legal and valid driving licence, at the time of alleged accident.

Respondent No.3-insurance company had also taken preliminary objection that no accident has taken place and that respondent No.1 was not authorised to drive the alleged bus nor he was holding any legal and valid driving licence, at the time of alleged accident. It is pleaded that no such accident had taken place and even if it is so, then the same was caused, on account of negligence and carelessness, on the part of deceased himself.

Issues were framed and both the sides adduced their evidence.

Rajwant Kaur, widow of the deceased stepped into witness box as PW-1 and two other witnesses i.e. PW-2 Paramjit Singh and PW-3 Gurdial Singh were also examined by the claimants, besides adducing documentary evidence i.e. post-mortem report Ex.P2, medical receipts Ex.P3 to P10.

On the other hand, respondents No.1 and 2 had examined RW-1 Heera Singh and no other witness was examined and the evidence was closed by the respondents.

On appraisal of the evidence, brought on record, learned Tribunal had concluded that, though the claimants had proved the death of Baljinder Singh, but however, they were not able to prove that Baljinder Singh had died in the accident, alleged to have taken place, due to rash and

negligent driving of the offending bus by respondent No.1-Sukhvinder Singh and on this account, it was concluded that on the basis of testimony of PW-3 Gurdial Singh, more particularly, that he failed to prove his presence, at the relevant time as he was not able to state about the number of the motorcycle driven by Jota Singh and thus, consequently, issue No.1, relating to the rashness and negligence, on the part of respondent No.1, in causing the accident, which resulted into death of Baljinder Singh, was decided against the claimants. Consequent thereupon, even issue No.2 was decided against the claimants. Resultantly, the claim petition, as such, was dismissed.

Being aggrieved, the appellants-claimants have filed the present appeal.

Upon notice, the respondents made appearance through counsel.

Counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the appellants-claimants that the Motor Vehicles Act is a benevolent piece of legislation and only summary proceedings are required to be conducted. The standard of proof is not like a criminal case i.e. beyond reasonable doubt. However, the claimants are only duty bound to produce such evidence, which would show on the basis of preponderance of probabilities that the accident was caused due to rash and negligent driving of offending vehicle, as implicated by them in the claim petition.

Considering the aforesaid principle of manner of appraisal of the evidence, in a motor vehicular accident cases, learned counsel has also placed reliance upon *Kusum Lata vs. Satbir, 2011 RCR (Civil) 379 SC* as well as *Bimla Devi and others vs. Himachal Road Transport Corporation and others, 2009 (13) SCC 530*, wherein, it was held that the preposition of

law is that requirement of proof in a MACT case, is not so stringent as in criminal case. In a case relating to motor accident claims, the claimants are not required to prove the case, as is required to be proved in criminal trial. Thus, it is submitted that the aforesaid distinction, ought to be kept in mind, while appraising the evidence, brought on record. The claimants are merely to establish their case, on the touchstone of preponderance of probability and that the 'standard of proof' beyond reasonable doubt, cannot be applied.

Keeping the aforesaid principle in mind, learned counsel for the appellants emphatically submits that the date of accident is 25.08.2008 and on that very day of the accident itself, the FIR was got registered, at the instance of Gurdial Singh, who had stated about the manner of taking place of the accident in the FIR. It is submitted that erroneous observations have been made by learned Tribunal, while giving the finding on issue No.1, relating to the number of the offending vehicle as well as the name of the driver of the offending vehicle, not having spelt in FIR Ex.P1.

Furthermore, also learned counsel has made reference to the testimony of Gurdial Singh, the alleged eye witness, when he stepped into witness box as PW-3. While making reference to the affidavit, he assiduously submits that the manner of the accident has been categorically stated, thereby, asserting blameworthiness on Sukhvinder Singh, while driving bus bearing registration No.PB-02T-9975. Thus, in the light of the aforesaid evidence, it is submitted that wrong observations have been made by learned Tribunal.

On the other hand, learned counsel for the respondents submit that no satisfactory evidence, has been led at the instance of the claimants, to establish rashness and negligence, on the part of respondent No.1. In the given circumstances, learned Tribunal had correctly appraised the evidence,

brought on record. Simply on the score of FIR having been got lodged and respondent No.1 facing the trial, does not *ipso facto*, establish about negligence of the driver of the bus. Had Gurdial Singh been accompanying the deceased, though on separate motorcycle, at the relevant time, then he would have definitely been able to answer the questions, which were put to him in the cross-examination. As such, a prayer has been made for the dismissal of the appeal.

There is no dispute about the settled position of law that in the claim petitions, arising out of the motor accident case, the appraisal of evidence, is not to be as per the standard of proof, as required in the criminal case i.e. beyond shadow of reasonable doubt. However, the foundational facts, ought to be brought on record and the same can be proved by way of preponderance of probability. Keeping this principle in mind, at the very outset, it is pertinent to make reference to the FIR, copy whereof is Ex.P1. The same was got registered by PW-3 Gurdial Singh.

With the able assistance of the counsel, I have gone through the contents of the said FIR. Perusal of the same reveals that Gurdial Singh had stated in the FIR about the manner in which, he himself being pillion rider of motorcycle driven by Jota Singh together with Baljinder Singh, on a separate motorcycle, having proceeded towards Faridkot and on the way, they had stopped at a petrol pump of village Balechak. He has also stated in the FIR about the bus bearing registration No.PB-02T-9975 of M/s Chohla Sahib Bus Service, having come from the opposite side at a high speed and furthermore, had also stated therein, about the driver of the bus having driven the bus in reckless manner, while going on wrong side of the road and hitting the motorcycle of Baljinder Singh, as a result whereof, Baljinder

Singh had sustained multiple injuries. Furthermore, the said witness has also stated that as the bus driver was from Jota Singh's village, Jota Singh had recognised him and name of the driver is Sukhvinder Singh s/o Shingara Singh, resident of Sarhali Kalan, District Tarn Taran. This FIR was got lodged on the day of accident itself. Therefore, it was got lodged with promptitude and thus, there were no chance of weaving of false story, with regard to manner of the accident and the vehicle involved as well as about the driver of the offending vehicle. Keeping in view the recitals of the FIR, as such, where number of vehicle involved in the accident and name of the driver, is spelt out, the observations made by learned Tribunal, on issue No.1, are palpably erroneous.

Considering the same, proceeding further, coming to the testimony of Gurdial Singh, an eye witness to the accident in question. In his affidavit Ex.PW3/A, which was tendered into evidence, he has categorically stated about the manner of taking place of the accident, which is in consonance with the version put forth by the claimants in the claim petition. He has imputed blameworthiness, on the part of respondent No.1- Sukhvinder Singh, while driving the offending bus of M/s Chohla Sahib Bus Service. He further categorically stated therein about Baljinder Singh to have sustained injuries, on account of accident, solely, taken place due to rash and negligent driving of respondent No.1 and these injuries proved fatal.

Though, learned Tribunal had made an observation about the said witness to have not been able to give number of the motorcycle, which was being driven by Jota Singh and also about the number of the motorcycle, driven by Baljinder Singh, but however, this omission on the part of Gurdial Singh, does not matter much, so long as, he had categorically stated about

the number of the offending bus and role assigned to Sukhvinder Singh.

In the given circumstances, the foundational facts, vis-a-vis factum of accident and manner of taking place of the accident, in view of the categorical eye witness account, given by Gurdial Singh, as such, stands amply established. This is all the more important to consider, as respondent No.1-Sukhvinder Singh did not have the chance to step into the witness box. He was the best person to confront about the accident having not taken place and about the blameworthiness having been falsely fastened upon him. However, he had not stepped into witness box. Rather, respondents No.1 and 2 had examined Heera Singh, attorney/son of managing partner Mangal Singh s/o Hazara Singh of Chohla Sahib Bus Service, as RW-1. Though, this witness in his affidavit Ex.RW1/A, had stated about no accident to have taken place, but however, he had admitted in cross-examination, about Sukhvinder Singh, to be the name of the driver and he also admitted about Sukhvinder Singh to be facing criminal case. Said Sukhvinder Singh, as observed aforesaid, has not stepped into witness box.

Considering the evidence in totality, as such, it stands amply established that accident had taken place, on account of rash and negligent driving of offending bus, driven by respondent No.1-Sukhvinder Singh. In view of the same, the claimants are entitled to seek compensation. Thus, findings on issues No.1 and 2, as given by learned Tribunal, are hereby reversed.

Now, we have to work upon the compensation to be awarded to the appellants-claimants, who are widow and the minor son as well as sister and mother of the deceased. In the claim petition, it is categorically asserted about all the claimants to be dependent upon the deceased. The father of the

deceased had already pre-deceased him. Even, the sister of Baljinder Singh was only 20 years old. Thus, the appellants-claimants, being widow, son, younger sister as well as mother, were dependent upon the deceased. Considering the aforesaid, compensation ought to be paid to the appellants-claimants.

Relating to the same, be it noted that deceased Baljinder Singh was 27 years old, at the time of accident. He was married. Appellant-claimant No.1-Rajwant Kaur is the widow of deceased, who stepped into witness box as PW-1 and she has categorically stated about Baljinder Singh to be working as Constable in Indian Reserve Border Police with 5th Battalion and furthermore, PW-2 Premjit Singh, Clerk of Commandant 5th IRB has been examined, who has proved the salary record of the deceased. He has produced the service record, from which it is evident that date of birth of Baljinder Singh was 29.10.1982.

Considering the same, the salary of deceased, who was 27 years old, at the relevant time and was posted as Security Guard at State Bank of Patiala, Faridkot, is established to be Rs.9451/- per month. Keeping in view the number of dependents, the deduction, on the count of 'personal expenses' has to be made to the extent of 1/4th. Further, as per settled law, addition of 50% ought to be made, on the count of 'future prospects'. Considering the age of the deceased, '17' is the suitable multiplier to be applied. Besides the same, as per '*Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130*', each of the claimants/dependents are entitled to compensation, on the count of 'loss of consortium', be it 'parental', 'spousal' or 'filial' to the extent of Rs.48,400/- each and they are also entitled to compensation, on the counts of

‘loss of estate’ and ‘funeral expenses’ to the extent of Rs.18,150/-, on each count.

Furthermore, the bill of the expenditure incurred on the treatment extended to the deceased, soon before his death, while in Amandeep Hospital, is Rs.5217/-and the compensation, on this count also has to be awarded.

Considering the same, the compensation payable to appellants-claimants, on account of death of Baljinder Singh, is computed, as herein given:-

Income	Rs.9451/- per month
Deduction of 1/4th	Rs.9451-2362=Rs.7089/-
Addition of 50%	Rs.7089+3544=Rs.10,633/-
Multiplier of ‘17’	Rs.10633x12 x17=Rs.21,69,132/-
Loss of consortium	Rs.48,400x4=Rs.1,93,600/-
Loss of estate	Rs.18,150/-
Funeral expenses	Rs.18,150/-
Medical expenses	Rs.5217/-
Total	Rs.24,04,249/-

As such, the appellants-claimants are held entitled to compensation to the extent of **Rs.24,04,249/-**. The liability of respondents No.1 to 3 is held to be joint and several to pay the amount of compensation, as now worked upon. On the amount of the compensation, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the claim petition, till realization of the amount of compensation. Out of the compensation, as worked upon aforesaid, appellant-claimant No.1 is held entitled to **Rs.10,00,000/-**, whereas, appellant-claimant No.2 is held entitled to **Rs.8,00,000/-** and appellant-claimant No.3 is held entitled to **Rs.2,00,000/-** whereas, appellant-claimant

No.4 is held entitled to **Rs.4,04,249/-**.

With the above observations, the present appeal stands allowed.

September 03, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No