

Before Motor Accident Claims Tribunal presided over by
Ms. Shashi Chauhan, Additional District & Sessions Judge,
Nuh. UID No. HR0132

	CNR No.	: HRNU01-000363-2021
	CIS No.	: MACP-42-2021
	MACP Case No.	: RBT 109 of 2024
	Date of Institution	: 19.01.2021/31.07.2024
	Date of decision	: 01.07.2026

Smt. Sameena aged 50 years wife of Akhtar Hussain, resident of village Mudadbas, Tehsil & District Nuh. UID No. 3694-5780-1326.
...Petitioner

Versus

1. Aasif Ali son of Mohammad Yunus, resident of Hidayat Colony, Nuh, Tehsil & District Nuh (Driver of offending vehicle bearing registration No. HR-27-F-8314)
2. Sahun Khan son of Hassan Mohammad, resident of village Bai, Tehsil & District Nuh. (Owner of offending vehicle bearing registration No. HR-27-F-8314)
3. Universal Somp General Insurance Company Unit No. 401, 4th Floor, Sangam Complex, 127, Andheri-Kurla Road, Andheri East (Mumbai) through its Manager. (Insurer of offending vehicle bearing registration No. HR-27-F-8314)

...Respondents

CLAIM PETITION U/S 166 OF MOTOR VEHICLE ACT, 1988

Present: Sh. M.U. Hassan, Advocate for the petitioner.
Respondents no. 1 & 2 exparte vide order dated 10.10.2022.
Sh. S.K. Mittal, Advocate for respondent no. 3.

AWARD:

The present claim petition has been filed under Section 166 of the Motor Vehicles Act, 1988 (**here-in-after referred to as Act**) for grant of compensation alongwith interest @ 24 % per annum from the date of accident till final payment thereof, on account of injuries suffered by the petitioner in a Motor Vehicular accident which took place due to rash and negligent driving of the offending vehicle bearing registration No. HR-27-F-8314 by respondent No.1.

2. Case of the petitioner, in brief, is that on 29-09-2020 petitioner was

standing at Bus Stop Bhimsika, Tehsil Hathin, and was waiting for bus, in the meantime, a vehicle bearing registration no HR-27-F-8314 (hereinafter referred to as the 'offending vehicle') driven by the respondent no 1 in rash, negligent and zigzag manner without carrying traffic rules and regulation came from Uttawar turn and struck the petitioner from side. Due to this impact she fell down on the road and received grievous and fatal injuries. The cousin of petitioner Mohd. Ali came there and shifted her to Civil Hospital and thereafter treated in several hospitals. Case FIR bearing No.162 dated 09.10.2020 under Sections 279 & 337 IPC was registered at Police station Uttawar, Palwal. It has been averred that as the accident took place solely due to rash and negligent act of respondent No.1, being driver, respondent no. 2 being owner and respondent no. 3 being insurer of the offending vehicle are jointly and severally liable to pay compensation to the petitioner.

3. Upon notice, none has appeared on behalf of respondents no. 1 & 2, therefore, they were proceeded against exparte vide order dated 10.10.2022.

4. Respondent No. 3, the insurance Company filed its separate written statement while taking preliminary objections regarding locus-standi, cause of action, maintainability, non-joinder of necessary parties etc. On merits, it has submitted that no accident took place as alleged in the claim petition. The vehicle in question has been falsely involved in collusion with the respondent No. 1 and local police. It has been submitted that the contents of neither the First Information Report nor the claim petition disclosed the manner in which the alleged accident has taken place. It is submitted that offending vehicle was falsely implicated in the alleged accident only for getting the false compensation from the insurance

company. It has been submitted that present petition against the answering respondent is not maintainable as the respondent no. 1 is not involved in the alleged accident. It has been submitted that petitioner with the collusion of police officials registered false FIR after delay of 10 days against driver of offending vehicle therefore no such accident has occurred. It is submitted that driver of the offending vehicle was not having a valid and effective driving licence and as such, the insurance company is not liable to indemnify the owner. It has been contended that the nature of the injuries as mentioned in the petition and also the expenses and compensation claimed for is exorbitant and without any basis of medical treatment. Lastly, dismissal of the petition with costs has been sought.

5. From the pleadings of the parties, the following issues were framed vide order dated 18.12.2024 by this Tribunal :-

(i) Whether the accident in question resulting into injury of Sameena, took place due to rash and negligent driving of driver of vehicle bearing registration no. HR-27-F-8314 by its driver-respondent no. 1 ?O.P.P.

(ii) If issue no. 1 is proved, whether the petitioner is entitled to get compensation on account of injury of Sameena wife of Akhtar Hussain in the accident and if so, how much and from whom ?O.P.P.

(iii) Whether the respondent no. 1 was not holding a valid and effective driving licence at the time of alleged accident ?OPR-3

(iv) Whether the insured has violated the terms and conditions of insurance policy. ?OPR-3

(v) Relief.

6. Both the parties were called upon to lead evidence to settle their rival contentions.

7. The petitioner in order to prove his case petitioner Sameena herself examined as PW1. Petitioner also examined Sarita Rani, AGTL in Medical record

Department, Artemis Hospital, Gurugram as PW2 and Mohd. Ali. Besides oral evidence, the learned counsel for petitioner placed on record documents Ex.P1 to Ex.P37 and closed the evidence vide separate recorded statement.

8. On the other hand, the respondent no. 3 has failed to lead any evidence on his behalf and closed his evidence vide separate recorded statement.

9. I have heard learned counsel for the parties and have gone through the record. My issue wise findings are as under :-

Issue No.1:-

10. Onus to prove this issue is upon the petitioner. To prove his case, the petitioner herself has examined as PW1 and tendered his duly sworn affidavit Ex.PW1/A wherein she categorically stated that on 29-09-2020 she was standing at Bus Stop Bhimsika, Tehsil Hathin, and was waiting for bus, in the meantime, a vehicle bearing registration no. HR-27-F-8314 driven by the respondent no 1 in rash, negligent and zigzag manner without carrying traffic rules and regulation came from Uttawar turn and struck her from side. Due to this impact she fell down on the road and received grievous and fatal injuries. The cousin of petitioner Mohd. Ali came there and shifted her to Civil Hospital and thereafter treated in several hospitals. Case FIR bearing No.162 dated 09.10.2020 under Sections 279 & 337 IPC was registered at Police station Uttawar, Palwal. This witness was cross examined at length by learned counsel for the respondents but nothing to shatter his veracity could be elucidated and her stand remained consistent throughout.

11. Perusal of copy of FIR (Ex.P3) shows that the registration number of the offending vehicle has been specifically mentioned therein as HR-27-F-8314. Petitioner moved a application before the SHO, Police Station Uttawar (Ex.P2).

The challan u/s 173 Cr.P.C. (Ex.P1) against respondent no.1 was filed. The Medico Legal Report (Ex.P5) was conducted on 29.09.2020. Notice under section 133 of M.V. Act (Ex.P8) has been given to respondents. Respondent no. 1 has been arrested vide memo. It has been held in 1993(2) PLR 109 Girdhari Lal Vs. Radhey sham and others that where the driver of the offending vehicle is facing trial for causing injuries to the petitioner by way of rash and negligent driving it is safe to hold that accident took place due to his rash and negligent driving.

12. It has been argued by learned counsel for the respondents that there is delay of 10 days in lodging the F.I.R. as the accident in question took place on 29.09.2020 whereas the F.I.R. was lodged on 09.10.2020 which has not been properly explained and the claim petition of the petitioner is liable to be dismissed only on this score. The aforesaid contention of learned counsel for respondent no. 3 does not merit acceptance because in the treatment record and MLR (Ex.P5) conducted on 29.09.2020, it has been specifically mentioned that injuries were sustained in road side accident. Further, it is clear that the petitioner sustained injuries in road side accident due to motor vehicular accident in his Medico-legal report (Ex.P5) and he took treatment from Gopinath Hospital, Bhiwari where petitioner remain admitted long time. In **Oriental Insurance Company Limited Vs. Hoshier Singh and others 2014(5) R.C.R. (Civil) 806 P&H**, it was held that when there was sufficient evidence on record to prove that the accident was caused due to rash and negligent driving of the driver of the offending vehicle, delay in lodging F.I.R. which occurred on account of anxiety of the attendant to first save the life of the injured by getting the best treatment to the injured deserves to be ignored. Also, in Ravi Vs. Badrinarayan and others 2011 AIR (SC) 1226, it was

held that although lodging of FIR is vital in deciding motor accident claim cases yet, delay in lodging the same should not be treated as fatal for such proceedings if, claimant has been able to demonstrate cogent reasons for it. It was further held that complainant was not aware of the niceties of law that lodging of FIR was condition precedent before filing the Claim Petition and delay in lodging of FIR cannot be a ground to doubt the claimant's case. All the cited cases squarely covers the situation in hand and no benefit can thus be extended in favour of respondents on this score when no evidence was led to rebut the overwhelming evidence led by the petitioner.

13. Per contra, stand of respondents is that no accident was caused by the offending vehicle. However, no evidence has been led by the respondents to prove this fact. The driver of offending vehicle has not stepped into the witness box to state his own case on oath or to offer himself for cross-examination. In these circumstances, an adverse inference has to be drawn against the respondents that the case set up by them is not true. At the cost of repetition, respondent No.1 has been challaned for the offence under Sections 279 & 337 IPC by the police. There is thus no reason to disbelieve the unrebutted testimony of the petitioner. Hence, it is established that the petitioner sustained injuries in the accident which took place due to rash and negligent driving of respondent No.1 while driving offending vehicle bearing no. HR-27-F-8314. Consequently, this issue is decided in favour of the petitioner.

Issue No.2 :

14. Under this issue, the petitioner was required to prove that he was entitled to compensation as well as quantum of compensation in respect of the

injuries suffered by him.

15. The petitioner has examined herself as PW1 and in order to prove medical bills has examined Sarita Rani, AGTL in Medical record Department, Artemis Hospital, Gurugram as PW2 has placed on record treatment record (Ex.PW1/A) and medical bills Ex.PW2/B and petitioner herself tendered medical bills amounting to ₹ 3,67,397/- (Ex.P20 to Ex.P37 & PW2/B) which were paid by petitioner.

The total amount of the aforesaid medical bills comes to ₹ 3,67,397/- and the petitioner is entitled for the same.

16. Having sustained grievous nature of injuries in the accident because of which, he had to be treated in Civil Hospital and also took treatment from Artemis Hospital, Gurugram and petitioner also took treatment to other private clinics, the petitioner must have suffered expenses towards special diet, transportation etc. Thus, without going into the minute details and keeping in view all the facts and circumstances into consideration, it is found that the petitioner is entitled to Rs.10,000/- towards **special diet** and Rs. 15,000/- towards **pain and sufferings**.

17. In aforesaid peculiar circumstances, the total compensation is awarded to the petitioner in the following heads:-

Sr. No	Heads of Claim	Amount
1.	Medical expenses	₹ 3,67,397/-
2.	Special diet	₹ 10,000/-
3.	Pain and sufferings	₹ 15,000/-
	Total	₹ 3,92,397/-

The petitioner is accordingly held entitled to a sum of ₹ 3,92,400/- (**round figure**) as compensation.

18. Now it is to be seen as to who is liable to make the payment of the amount of compensation. The offending vehicle was insured with respondent No. 3 and owned by respondent no. 2 and driven by respondent no. 1 at the time of this accident. Resultantly, respondents No. 1 to 3 will be liable to pay the compensation jointly and severally. Hence, this issue is answered in favour of petitioner and against the respondents subject to finding on issue No. 3. Consequently, this issue is disposed of accordingly.

Issue No.3 & 4 :

19. Admittedly, the offending vehicle was insured with respondent No.2 vide Insurance Policy (Ex.P14). Copy of registration certification (Ex.P15) placed on the file shows that the respondent No.1 was the registered owner of the offending vehicle. The respondent No.1 being the driver of the offending vehicle has placed on the file copy of driving licence (Ex.P16).

Learned counsel for the respondent No. 2-Insurance company has contended that there is violation of terms and conditions of insurance policy as the respondent No.1 was not having a valid and effective driving licence at the time of the accident in question. Perusal of the driving licence (Ex.P4) reveals that the respondent no.1 is authorized to drive vehicle and the driving licence is valid upto 14.04.2037 (NT). In these circumstances, it is held that the respondent No.1 is duly authorized to drive the offending vehicle. Hence, issues no. 1 & 2 are decided against the insurance company.

Relief:

20. As a sequel to the above findings, the petition is partly allowed with costs and the petitioner is awarded a sum of ₹ 3,92,400/- (Three Lac Ninety Two Thousand Four Hundred only) alongwith interest @ 7.5% per annum from the date of filing of petition till actual realization. The compensation shall be paid by respondent Nos. 1 to 3 jointly and severally to the petitioner within two months from the date of order. However the first liability to make payment of award is of insurance company (respondent no. 3). Counsel fee is assessed at the rate of Rs.11,000/-. Memo of costs be prepared accordingly. File be consigned to record room after due compliance.

Announced in the open Court:

Dated: 01.07.2026

(Shashi Chauhan)

Motor Accident Claims Tribunal

Nuh. (UID HR0132).

Note: This award contains 09 pages and each page has been checked and signed by me.

(Atul Kumar)

(Shashi Chauhan)

Motor Accident Claims Tribunal

Nuh. (UID HR0132).

(Shashi Chauhan)

Motor Accident Claims Tribunal.

Nuh 01.07.2026