



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

FAO-5406-2009 (O&M)

RAM KANWAR**.....Appellant**

Vs.

BALRAJ AND ORS.**.....Respondents****Reserved on: 27.03.2026****Pronounced on: 12.05.2026****Uploaded on:- 15.05.2026*****Whether only the operative part of the judgment is pronounced?******No******Whether full judgment is pronounced?******Yes*****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Susheel Gautam, Advocate
for the appellant.

None for respondents No.1 and 2.

Ms. Vibha Dhiman, Advocate
for respondent No.3-Insurance Company.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred for setting aside the award dated 11.04.2009 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, by the learned Motor Accident Claims Tribunal, Sonipat (for short, 'the Tribunal'), whereby, claim petition filed by the appellant/claimant was dismissed.

BRIEF FACTS OF THE CASE

2. The brief facts of the case are that petitioner Ram Kanwar had boarded an Eicher make tractor trailer at the Khubru Adda en route to village Majri, Tehsil Ganaur, district Sonipat on the late evening of June 30, 2006. The tractor-trailer arrived in the vicinity of Village Sheikhpura turning at about 10:45



p.m. where the rear side of the trailer was hit by a Tata Spacio make vehicle No.HR-56-3246. bearing registration The driver of the tractor swerved his vehicle towards the kucha berm of the road but the driver of the offending vehicle trespassed into the wrong lane and caused the accident. The petitioner was immediately shifted to Mool Chand Hospital, Ganaur for instant medical aid where MLR No.S/11/06 dated 1.7.2006 was prepared by the doctor in attendance. The matter was reported to the police and case bearing FIR No.184 dated 1.7.2006 was registered at Police Station, Ganaur for the alleged commission of the offences punishable under sections 279, 337 and 338 of the Indian Penal Code. The petitioner claims to have received treatment at Mool Chand Hospital, Ganaur as also at some other hospitals on total cost of Rs.50,000/- only. He was barely forty four years of age on the day of the accident. He is a farmer labourer by profession who was earning a sum of Rs.5600/- per month on the day of the mishap. He has sought a sum of Rs.5.00 lacs as compensation on account of the injuries suffered by him in the mishap.

3. Upon notice of the claim petition, respondents therein appeared and contested the claim petition by filing separate written statement denying the factum of accident/compensation.

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

“1. Whether the petitioner sustained injuries due to rash and negligent driving of vehicle No.HR-56-3246 by respondent No.1? OPP

2. If Issue No.1 is proved in the affirmative what compensation the petitioner is entitled to and from whom? OPP

3. Whether respondent No.1 was not holding a valid driving licence at the time of accident? OPR-3.



4. Whether the claim petition is bad for non-joinder of necessary parties, as alleged? OPR-3

5. Relief.”

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim petition of the appellant. Hence the present appeal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

6. Learned counsel for the appellant–claimant contends that the learned Tribunal has erred in dismissing the claim petition filed by the appellant/claimant on the erroneous premise that the claim petition was instituted in collusion with respondents No.1 and 2 (driver and owner of the offending vehicle) just to grab compensation from respondent No.3-Insurance Company. Therefore, he prays that the present appeal be allowed and compensation be awarded as per settled law.

7. Per contra, learned counsel for the respondent No.3-Insurance Company contends that the learned Tribunal after appreciating the fact, has rightly dismissed the claim petition of the claimant-appellant. Therefore, he prays that the present appeal be dismissed.

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

9. Before proceeding further, it is relevant to reproduce the relevant portion of the award, which reads as under:-

“ISSUE NO.1

It is the case of the petitioner that te wee Sraveling innerle tractor troller on the evening of June 30, 2006 which was hit by a Tqt Specie nata vehicle bearing registration No.-56- 3246. The accident was the direct



result of rash driving on the part of respondent Baraj, the driver of the Tata Spacia sate vehicle. The petitioner had allegedly suffered multiple injuries on his person. He had allegedly spent treatment.

11. Petitioner Ram Kanwar (PW-2) has testified that he was traveling in a Buggi fitted with a tractor at the time of the mishap which had occurred on June 30, 2006. A, Sumo make jeep bearing registration No.HR-56- 3246 came from the opposite direction in manner since its driver alcohol. The tractor a zigzag was under the influence of driver sensed trouble and swerved his vehicle towards the kucha berm of the road but the Sumo jeep driver did not relent and rammed into the Buggi. He fell down and suffered multiple injuries on his left leg, left arm and the forehead. The driver of the Sumo jeep sped away after causing the mishap. He could not note down the registration number of jeep. He was immediately rushed to Mool number of the jeep. Chand Hospital, Ganaur by his nephew, Mukesh, who was summoned to the spot by the driver of the tractor. He lodged report Ex. PB with the police on the following morning. He was discharged from the hospital on July 13, 2006. Respondent Shamsheer Singh, the driver of the offending Sumo jeep, approached him at his village alongwith one dozen persons with the offer to bear his medical expenses and compromise the matter. Since the matter had already been reported to the police, he could not enter into a compromise with him. The police had allegedly given the registration number of the offending jeep to him while recording his statement in the hospital on July 1, 2006. He supplementary statement was recorded on July 22, 2006. He was not aware of the name of the driver or the registration number of the jeep on July 1, 2006 when his statement was recorded by the police. He does not know as to who had revealed the name of the driver and the



registration number of the offending jeep to the police officer who had conveyed the same to him.

12. Sh.Shamunder Singh (PW3), DRK, Record Room, court of Sub Divisional Judicial Magistrate, Ganaur had produced the criminal file titled as 'State versus Balraj' bearing FIR No.184 dated 1.7.2006 of Police Station, Ganaur for the alleged commission of the offences punishable under Sections 279, 337 and 338 of the Indian Penal Code. The supplementary statement of Ram Kumar was recorded by the investigating officer on 7.8.2006, the copy of which is Mark-A on record. A Tata Sumo make vehicle bearing registration No.HR-56- 3246 was recovered by the police on 7.8.2006. The police had also recovered the driving licence of respondent Balraj, the copy whereof is Ex.R1 on record. Respondent Balraj was arrested on 31.8.2006 and was released on bail on the same day.

13. Petitioner Ram Kanwar had lodged report Ex.PB with the police, interalia, alleging that he had boarded a Buggi fitted tractor on June 30, 2006 at Khubru Adda, Ganaur but as the tractor-Buggi arrived in the vicinity of Village Sheikhpura turning at about 10:45 p.m., a white coloured Tata Sumo make vehicle arrived there at enormous speed and hit against the Buggi fitted with the tractor. He suffered multiple injuries in the mishap. He could not identify the driver of the Tata Sumo make vehicle who sped away after causing the mishap. The claimant has urged that the police had recorded his supplementary statement on 22.7.2006 whereas it is evident from the supplementary statement Mark-A that it was recorded on 7.8.2006. It is mentioned in the supplementary statement that Shamsher Singh son of Raj Pal alias Roopla Jat, a resident of village Khubru, and his companion met the injuries on 22.7.2006 and identified himself as the owner of the Tata Sumo make



vehicle bearing registration No.HR-56-3246 which had rammed into the tractor-Buggi on 30.6.2006. Respondent Balraj, a resident of village Ahulana was the driver of the offending vehicle. The owner of the Sumo make vehicle admitted the fault of his driver and offered to compromise the matter with him.

14. The evidence of the petitioner fails to inspire confidence. No person has come forward to lend corroboration of the testimony of petitioner Ram Kanwar. Even the driver of the tractor was not put in the witness box to lend corroboration to his version. He also failed to put the Investigating Officer of the criminal case in the witness box to prove that the Sumo make vehicle being driven by respondent Balraj had actually caused the mishap on that evening of June 30, 2006. The petitioner has testified in most unambiguous words that he had no clue about the identify of the driver or the registration number of the alleged offending vehicle when he was shifted to Mool Chand Hospital, Ganaur for treatment but eh registration number of the offending vehicle had been provided to him by the policeman who had recorded his statement (Ex.PB) in the hospital on 1.7.2006. He does not know anything about the source of the policeman who had given the registration number of the alleged offending vehicle to him. It was indeed a case of hit and run. The vehicle which had allegedly hit against the Buggi had sped away under the cover of darkness. This tribunal finds itself in conformity with the views of the learned counsel for the insurance company that there is a direct collusion between the claimant and respondent Shamsher Singh, the owner of the alleged offending vehicle. The evidence on record is indeed not sufficient to hold that Tata Spacio make vehicle bearing registration No.HR-56-3246 was actually involved in the alleged



mishap and issue No.1 is, consequently decided against the petitioner. ”

Analysis of the Record

10. A perusal of the impugned award reveals that the learned Tribunal has dismissed the claim petition on a wholly erroneous and legally unsustainable premise by presuming collusion between the claimant and the owner of the offending vehicle, despite there being no cogent evidence on record to substantiate such a finding.

11. The factum of the accident as well as the injuries suffered by the claimant-appellant stands duly established from the evidence available on record. The claimant, while appearing as PW-2, gave a detailed and consistent account of the manner in which the accident occurred and specifically attributed rash and negligent driving to respondent No.1, the driver of the offending vehicle. Nothing material could be elicited in his cross-examination so as to discredit his testimony or render the same unreliable.

12. It further emerges from the record that FIR No.184 dated 01.07.2006 was lodged promptly on the very next day of the occurrence and the entire genesis of the accident was narrated therein. Merely because the registration number of the offending vehicle and the identity of its driver were not mentioned in the initial statement cannot be construed against the claimant, particularly when it was his consistent case that the offending vehicle fled away from the spot immediately after the accident under the cover of darkness.

13. The testimony of PW-3, Sh. Shamunder Singh, Dealing Clerk, Record Room, Court of the learned Sub Divisional Judicial Magistrate, Ganaur, further establishes that pursuant to the investigation conducted in the aforesaid FIR, respondent No.1-Balraj was arrested and criminal proceedings were



initiated against him in relation to the accident in question. The investigation culminated in filing of the challan against the driver of the offending vehicle.

14. It is now well settled that registration of FIR, coupled with filing of a charge-sheet against the driver of the offending vehicle, constitutes *prima facie* evidence regarding the occurrence of the accident and the involvement of the vehicle concerned. In claim proceedings under the Motor Vehicles Act, strict rules of evidence are not required to be applied and the claimants are merely required to establish their case on the touchstone of preponderance of probabilities and not beyond reasonable doubt.

15. The record further reveals that although initially the particulars of the offending vehicle and its driver were not known to the claimant, the same were subsequently unearthed during police investigation and respondent No.1 was accordingly sent up to face trial. Despite such material being available on record, the learned Tribunal discarded the claim petition solely on the ground that the Investigating Officer had not been examined by the claimant. In the considered opinion of this Court, the said approach is manifestly perverse and legally untenable.

16. Once the police investigation had culminated in prosecution of respondent No.1, the burden could not have been shifted upon the claimant to further prove the correctness of the investigation by examining the Investigating Officer. If the respondents, particularly the Insurance Company, had any doubt regarding the fairness or genuineness of the investigation, it was always open to them to summon the Investigating Officer in defence. The learned Tribunal committed patent illegality in drawing an adverse inference against the claimant for non-examination of the Investigating Officer, thereby placing the



burden upon the wrong party. Such an approach adopted by the learned Tribunal clearly amounts to putting the cart before the horse.

17. It is also significant to note that absolutely no evidence whatsoever was led by the insurance company to substantiate its plea of collusion between the claimant and the owner or driver of the offending vehicle. A mere bald allegation of collusion, unsupported by any material particulars or evidence, could not have formed the basis for dismissal of the claim petition. It is settled law that the plea of collusion must not only be specifically pleaded but also strictly proved by the party asserting the same. Reference in this regard may be made to the judgment of the Hon'ble Supreme Court in ***Geeta Dubey v. United India Insurance Company Ltd., 2024 INSC 998***, wherein it has been held that the burden to establish collusion squarely lies upon the insurer.

18. In the present case, the insurance company miserably failed to discharge the said burden. There is not even an allegation that the police authorities had acted in connivance with the claimant or had falsely implicated the offending vehicle. Rather, the investigation conducted by the police resulted in recovery of the vehicle, arrest of the driver and filing of the charge-sheet against him.

19. It is equally well settled that in motor accident claim cases, where the occurrence of the accident or involvement of the offending vehicle is disputed, the claimants are only expected to establish the same on the principle of preponderance of probabilities. The standard of proof applicable to criminal trials cannot be imported into proceedings under the Motor Vehicles Act. In the facts of the present case, this Court is satisfied that the involvement of vehicle bearing registration No. HR-56-3246 stands duly established on record on the basis of probabilities.



20. A perusal of the record further shows that there was no conceivable reason for the police to falsely implicate the vehicle in question and prosecute its driver. Had the insurance company genuinely suspected collusion or false implication, it could have taken recourse to appropriate legal remedies by approaching higher police authorities or seeking further investigation through a competent court of law. No such step was ever taken.

21. In view of the aforesaid discussion, the findings recorded by the learned Tribunal on Issue No.1 are wholly unsustainable and are accordingly set aside. The claimant is, therefore, held entitled to compensation in accordance with law.

22. So far as the quantum of compensation is concerned, the claimant suffered multiple injuries on his person including fracture in left fibula. As per the medico-legal report Ex.PA he remained an indoor patient for 12 days. For proving these injuries, medical bills ranging from Ex.P-1 to Ex.P-9 was produced which proves that he suffered immense amount of pain and agony due to the alleged accident.

23. Considering the facts and circumstances of the case, it is evident that he endured immense pain, trauma, and suffering, the intensity of which would be unbearable for any human being, particularly for a young person.

24. Given the severity of the injuries and the prolonged in-patient treatment, the learned Tribunal has erred in not awarding just amount of compensation under the head of pain and suffering.

25. Therefore, the compensation assessed by learned tribunal is on the lower side. Accordingly, in order to advance the cause of justice and to secure fair adjudication in consonance with the object of the Act, this Court deems it



appropriate to grant the compensation considering the nature of injuries to the claimants.

26. In view of the same, appellant-claimant is held entitled to Rs.2,50,000/- in lump-sum.

27. So far as the interest part is concerned, as held by Hon'ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R.Valli and Others VS. Tamil Nadu State Transport Corporation** (2022) 5 Supreme Court Cases 107, the appellant-claimant is granted the interest @ 9% per annum on the amount of compensation from the date of filing of claim petition till the date of its realization.

28. So far as issue No.3 regarding holding of valid driving licence at the time of accident, learned Tribunal has rightly dealt with the same and decided the issue against the Insurance Company.

28. Consequently, respondent No.3-Insurance Company is directed to deposit the amount of compensation alongwith interest with the learned Tribunal within a period of two months from today. The Tribunal is further directed to disburse the amount of compensation alongwith interest in the account of the claimant. The claimant is directed to furnish his bank account details to the Tribunal.

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

12.05.2026

Ayub/Saahil

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes