IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-7208-2010 (O&M)

BALJEET AND ANR.

..Appellants

Versus

HARKAUR AND ANOTHER

..Respondents

Reserved on: 25.03.2026
Pronounced on: 12.05.2026
Uploaded on: 19.05.2026

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. Manoj Kumar Sood, Advocate
for the appellants.

Mr. Akshit Mehta, Advocate
for respondent No.1.

Mr. Neeraj Khanna, Advocate
for respondent No.2-Insurance Company.

SUDEEPTI SHARMA, J.

1. The present appeal has been filed by the appellant/driver & owner of the offending vehicle against the award dated 31.08.2010 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal'), wherein the appellant/driver and owner of the offending vehicle was fastened with the liability to pay the compensation of Rs.1,51,000/- to the claimant/respondent No.1 along with interest @ 6 % per annum from the date of filing of claim petition till recovery.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 10.03.2009 in the morning, the petitioner was going from her house towards Dhana road side for taking grass and when she reached near Indane Gas Godown, Bhiwani, in the meantime, a car bearing registration No. DL-3C- AE-0597 being driven by respondent No.01, rashly, negligently at a very high speed came from Dadri gate side Bhiwani and respondent no. 01 due to rash and negligent driving came on the road side, without blowing any horn and struck the petitioner from back and due to heavy impact, the petitioner fell down on the side of the road and sustained injuries on her right foot, below the ankle joint. It was further alleged that this accident was witnessed by her neighbourer Pawan son of Ram Chander; that after causing the accident, respondent no. 01 fled away from the spot towards Dadri gate side and gone girl of Lajwanti wife of Ranbir Singh was also sitting on the side of the driver; that the accident was caused solely due to rash and negligent driving of respondent no. 01. It was further alleged that Pawan Kumar, after arranging the vehicle, shifted the petitioner to General Hospital, Bhiwani, for treatment. It was further alleged that after having received ruqqa, sent by Medical Officer, General Hospital, Bhiwani, police recorded the statement of the petitioner and lodged the F.I.R. No. 132 dated 10.03.2009 against the respondent No.1. Attributing the accident to the rash and negligent driving of the Car No. DL-3C-AE-0597 by respondent no. 1, petitioner has filed this claim petition impleading Baljeet, being driver, Krishan Kumar, being owner and IFFCO-TOKIO General Insurance Company, being insurer of the offending vehicle.

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:-

> *"i). Whether the accident in question took place due to rash and negligent driving of respondent no. 1 while driving vehicle no.DL-3C-AE-0597 and due to which petitioner received injuries?OPP*
>
> *ii) If issue no. 01 is proved, whether the petitioner is entitled to receive compensation, if so, how much and from whom?OP parties.*
>
> *iv) Whether the petition is not maintainable in the present form?OPR*
>
> *iv) Whether the respondent/owner violated the terms and conditions of insurance policy? OPR Insurance Company.*
>
> *v) Whether the respondent driver has a valid and effective driving licence at the relevant time in question?OPR*
>
> *v-a) Whether the vehicle in question was not insured on the date of accident?OPR*
>
> *vi) Relief"*

5. Thereafter, both the parties led their evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimant/respondent No.1. However, the appellants/driver & owner of the offending vehicle were held liable to pay compensation. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:

7. Learned counsel for appellant/driver and owner of the offending vehicle contends as under:-

i. that learned tribunal has erred in holding that accident occurred due to rash and negligent driving of offending vehicle driven by appellant/driver of the offending vehicle.

ii. that the number of offending vehicle was not mentioned in the FIR and the offending vehicle was later on introduced just to grab compensation.

iii. that learned tribunal has erred in fixing liability to pay compensation to respondent No. 1/claimant on the erroneous premise that there is violation in the terms of insurance policy.

iv. that on the date of accident the insurance policy of the offending vehicle was valid. He, therefore, prays that the present appeal be allowed.

8. Per contra learned counsel for respondent No.1/claimant contends as under:-

i. that learned tribunal has rightly held that accident occurred due to sole rash and negligent driving of appellant/driver of offending vehicle.

ii. that minor discrepancies in the testimony of eyewitness is not fatal in MACT.

iii. that although there is violation in the terms of insurance policy still the respondent No.2-Insurance Company should have made liable to pay at first instance with liberty to recover the compensation from appellant/owner and driver of the offending vehicle. In support of his contentions, he relied upon the following judgments:-

1. Oriental Insurance Co. Ltd. Vs. Inderjit Kaur, 1998(1) RCR (Civil) 227.

2. Satya Devi and another Vs. Subhash Singh and others, Law Finder Doc Id #2782251.

9. Per contra learned counsel for respondent No.2/insurance company vehemently argues on the line of award and contends that once on the date of accident the vehicle was not insured the insurance company cannot be made liable to pay compensation. He therefore prays that the present appeal be dismissed.

10. I have heard learned counsel for the parties at length and have perused the entire record of the case with their able assistance.

11. A perusal of the impugned award reveals that the learned Tribunal has appreciated the oral as well as documentary evidence available on record and has rightly returned the finding that accident in question occurred due to the rash and negligent driving of the offending vehicle by the appellant-driver. The testimony of the claimant Harkaur, who appeared as PW-1, remained consistent, cogent and trustworthy throughout. She categorically deposed with regard to the manner in which the offending vehicle bearing registration No. DL-3C-AE-0597, being driven at a high

speed and in a rash and negligent manner, struck her from behind, resulting in grievous injuries. Despite lengthy cross-examination, nothing material could be elicited so as to discredit her testimony or shake her credibility.

12. The learned Tribunal has also rightly taken note of the fact that the appellant-driver, while appearing as RW-3, admitted during his cross-examination that his driving licence had been taken into possession in the criminal case arising out of the accident in question and even placed on record a copy thereof as Ex.R9. The said admission clearly establishes that the appellant-driver was facing criminal prosecution in relation to the occurrence in question. Significantly, there is no material on record to indicate that the appellant-driver ever lodged any complaint or representation before the higher police authorities alleging false implication in the criminal case. The absence of any such protest or challenge to his implication lends further credence to the case set up by the claimant and completely demolishes the plea raised by the appellant-driver that no accident had taken place with his vehicle.

13. The learned Tribunal has, therefore, rightly relied upon the settled proposition of law laid down in ***Girdhari Lal versus Radhey Shyam and others, 1993 (2) P.L.R. 109***, to hold that where a driver is facing prosecution for rash and negligent driving arising out of the same accident, such circumstance constitutes a strong *prima facie* circumstance to infer negligence in claim proceedings under the Motor Vehicles Act. Consequently, the finding recorded by the learned Tribunal on Issue No.1 is based upon proper appreciation of evidence and settled principles of law and

does not suffer from any illegality or perversity warranting interference by this Court.

14. Significantly, the record reveals that after conducting a proper investigation, the police filed a charge sheet against the appellant-driver, who was facing trial for causing the said accident. This further substantiates the claim of the claimant.

15. It is a trite law that in motor accident claims proceedings under the Motor Vehicles Act, once the FIR has been lodged and a charge sheet has been filed against a particular individual, the same constitutes *prima facie* evidence of negligence on the part of the accused. The standard of proof in MACT proceedings is not equivalent to that of a criminal trial and a finding is required to be recorded on the touchstone of preponderance of probabilities alone. In this regard, reliance can aptly be placed upon the judgment of the Hon'ble Supreme Court in ***Anita Sharma and others Vs. The New India Assurance Co. Ltd. and another, 2021(1) RCR (Civil), 201***, wherein it was held as under:-

> *"22. Equally, we are concerned over the failure of the High Court to be cognizant of the fact that strict principles of evidence and standards of proof like in a criminal trial are inapplicable in MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence in accident claim cases ought not to be to find fault with non-examination of some best eye-witnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to*

ascertain whether the claimant's version is more likely than not true."

16. In view of the aforesaid discussion, the findings recorded by the learned Tribunal holding the appellant-driver negligent in causing the accident are fully justified, well reasoned and call for no interference.

17. A careful perusal of the impugned award reveals that the learned Tribunal has examined the issue relating to the liability of the insurer in a comprehensive, legally sustainable and judicious manner. Upon proper appreciation of the oral as well as documentary evidence available on record, the learned Tribunal has rightly returned finding that the offending vehicle was not covered under a valid and subsisting policy of insurance on the date of accident owing to dishonour of the cheque issued towards payment of premium. Consequently, the liability to satisfy the award was rightly fastened upon the appellants, namely the driver and owner of the offending vehicle.

18. The record demonstrates that Insurance Policy Ex.R8/A had initially been issued in respect of the offending vehicle bearing registration No. DL-3C-AE-0597 for the period from 11.08.2008 to 10.08.2009. However, the premium payable under the said policy was never realized by the insurer. The owner of the vehicle had issued cheque No. 369452 dated 05.08.2008 for an amount of Rs.6,451/- towards payment of premium, but the said cheque was dishonoured on presentation on account of insufficiency of funds.

19. The learned Tribunal has rightly placed reliance upon the testimony of RW-1 Ajay Kumar Sharma, Officer of ICICI Bank, who duly

proved statement of account Ex.R1 pertaining to the account from which the cheque in question had been issued. The said witness categorically deposed that the cheque had been returned unpaid for want of sufficient funds. Further corroboration was furnished by RW-2 Mohit Kukreja, Agency Manager of IFFCO-TOKIO General Insurance Company, who proved documents Ex.R5 to Ex.R7, including the cancellation letter dated 25.08.2008 issued by the insurer to the insured, whereby the policy stood cancelled on account of non-realisation of premium.

20. Significantly, the appellants failed to place on record any cogent or convincing material to establish that subsequent to dishonour of the cheque, any effort was made by the insured either to remit the premium amount afresh or to seek revival of the policy. Once the cheque issued towards premium stood dishonoured and the policy had been cancelled prior to the date of accident after due intimation to the insured, no concluded and enforceable contract of insurance survived between the insurer and the insured on the date of occurrence.

21. The finding recorded by the learned Tribunal that the insurer was not liable to indemnify the insured is, therefore, fully supported by the evidence on record and is in consonance with the settled principles governing contracts of insurance. It is well settled that where the cheque issued towards payment of insurance premium is dishonoured and the policy is cancelled prior to the accident upon due notice to the insured, the insurer cannot ordinarily be saddled with the liability to indemnify the owner.

22. However, the matter does not rest there. Even in cases where the insurer succeeds in establishing a valid defence qua the insured, the interests

of third-party claimants under the benevolent scheme of the Motor Vehicles Act cannot be defeated. The consistent view of the Hon'ble Supreme Court has been that in order to protect innocent third-party victims, the insurer can be directed to satisfy the award in the first instance with liberty to recover the same from the owner and driver of the offending vehicle.

23. In this regard, reliance may appropriately be placed upon the judgment of the Hon'ble Supreme Court in ***Oriental Insurance Co. Ltd. v. Inderjit Kaur, 1998(1) SCC 371***, wherein the larger Bench held that notwithstanding dishonour of the cheque issued towards premium, the insurer would remain liable vis-a-vis third parties and would thereafter be entitled to recover the amount from the insured. The relevant extract of the same is reproduced as under:-

> "*8. We have, therefore, this position. Despite the bar created by Section 64VB of the Insurance Act, the appellant, an authorised insurer, issued a policy of insurance to cover the bus without receiving the premium therefor. By reason of the provisions of Sections 147(5) and 149(1) of the Motor Vehicles Act, the appellant became liable to indemnify third parties in respect of the liability which that policy covered and to satisfy awards of compensation in respect thereof notwithstanding its entitlement (upon which we do not express any opinion) to avoid or cancel the policy for the reason that the cheque issued in payment of the premium thereon had not been honoured.*
>
> *9. The policy of insurance that the appellant issued was a representation upon which the authorities and third parties were entitled to act. The appellant was not absolved of its obligations to third parties under the policy because it did not receive the premium. Its remedies in this behalf lay against the insured.*
>
> *10. We may note in this connection the following passage in the case of* ***Montreal Street Railway Company v. Normandin, AIR 1917 Privy Council 142*** *:*
>
> > *"When the provisions of a statute relate to the performance of a public duty and the case is such that to hold null and void acts done in neglect of this duty would work serious general inconvenience*

or injustice to persons who have no control over those entrusted with the duty and at the same time would not promote the main object of the Legislature, it has been the practice to hold such provisions to be directory only, the neglect of them, though punishable, not affecting the validity of the acts done."

11. It must also be noted that is was the appellant itself who was responsible for its predicament. It had issued the policy of insurance upon receipt only of a cheque towards the premium in contravention of the provisions of Section 64VB of the Insurance Act. The public interest that a policy of insurance serves must, clearly, prevail over the interest of the appellant.

We are of view, in the circumstances, that the observations in the case of ***United India Insurance Co. Ltd. v. Ayeb Mohammed*** *do not lay down good law.*

The appeal is dismissed. The respondents not having appeared, there shall be no order as to costs.

Appeal dismissed."

24. In view of the aforesaid settled legal position, while affirming the finding of the learned Tribunal that the insurer was entitled to avoid its contractual liability against the insured on account of non-payment of premium, this Court deems it appropriate, in the interest of justice and to safeguard the rights of the claimants, to direct respondent No.3–Insurance Company to satisfy the award in the first instance with liberty to recover the awarded amount from the appellants-owner and driver of the offending vehicle in accordance with law.

25. Accordingly, the impugned award is modified to the aforesaid extent. The respondent-Insurance Company shall deposit/pay the compensation amount to the claimants in the first instance and shall thereafter be entitled to recover the same from the appellants-owner and driver of the offending vehicle.

26. Consequently, the present appeal is hereby dismissed, being bereft of any merit.

27. Pending miscellaneous applications, if any, are also disposed of.

12.05.2026 **(SUDEEPTI SHARMA)**
Ayub/Saahil **JUDGE**

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