

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

FAO-3561-2016 (O&M)

BANT SINGH AND ANR.

.....Appellants

Vs.

LALIT KUMAR AND ORS.

.....Respondents

Reserved on: 18.03.2026

Pronounced on: 21.04.2026

Uploaded on: 27.04.2026

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. Ramdeep Partap Singh, Advocate
Mr. Sahil Koul, Advocate for the appellants.

Mr. Ishan Gupta, Advocate
Ms. Vrinda Katoch, Advocate
for respondents No.1 and 2.

Ms. Jyotsna Saini, Advocate
Mr. Ashish Yadav, Advocate
for respondent No.3-Insurance Company.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 05.10.2015 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Sangrur (for short, 'the Tribunal'), whereby, claim petition filed by the appellants/claimants, was dismissed.

BRIEF FACTS OF THE CASE

2. The brief facts of the case are that the deceased was 45 years old, who was serving in Homeguard department and was earning



Rs.15,000/- per mensem; that on 17.10.2014 deceased Jagtar Singh was going from Bhawanigarh to Police Station, Sadar, Sunam, on his motorcycle, make Bajaj Discover, bearing registration no. PB 13 Z 5790; that at about 06.30 p.m. deceased Jagtar Singh met his brother Harmail Singh, who was waiting for the deceased on the way; that after meeting his brother Harmail Singh, deceased proceeded towards Police Station, Sadar, Sunam on his motorcycle; that the deceased reached near village Gharachon on main road, when a car, make Swift, bearing registration no. HR 25 C 2220 (for short, the offending vehicle) owned by respondent no.2 and driven by respondent no.1 in a rash and negligent manner and at a high speed, came and rammed into motorcycle of the deceased; that as a result of the accident, the deceased received multiple grievous injuries and expired at the spot; that driver of the car along with his vehicle fled away from the spot; that on the statement of Harmail Singh, First Information Report no. 94 dated 18.10.2014 was registered under Sections 279, 427 and 304-A of the Indian Penal Code at Police Station, Sadar, Sangrur.

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 learned Tribunal framed the following issues:-

“1. Whether death of Jagtar Singh took place as a result of motor vehicle accident on 17.10.2014 in the area of village Gharachon due to rash and negligent driving of



respondent no.1 of car bearing registration no. HR 25 C 2220? OPA

2. If issue no.1 is proved, whether the applicants are entitled to compensation, if so, to what amount and from whom? OPA

3. Whether respondent no.1 was holding a valid and effective driving licence at the time of accident? OPR-1

4. 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 appearing for the appellants–claimants contends that the learned Tribunal has gravely erred, both on facts and in law, in dismissing the claim petition on the untenable premise that the claimants failed to establish that the accident occurred due to the rash and negligent driving of the offending vehicle. He further contends that the learned Tribunal has failed to properly appreciate the documentary as well as circumstantial evidence, particularly the recovery of the bumper of the offending vehicle from the spot of the accident, which clearly corroborates the involvement of the said vehicle. He, therefore, prays that the present appeal be allowed and the award passed by learned Tribunal be set aside.

7. Per contra, learned counsel for the respondents supports the impugned award, contending that the FIR was lodged against an unknown vehicle and driver, no eyewitness was examined, and the testimonies on

record suffer from material contradictions. It is thus submitted that the claimants failed to prove their case, and the appeal deserves dismissal.

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

10. Onus of this issue was upon the applicants and they were required to prove that respondent no.1 caused the accident by his rash and negligent driving of the offending vehicle belonging to respondent no.2.

11. Argument of learned counsel for the applicants, at the outset, was that in the evidence of AW1 Head Constable Arvinder Pal Singh, investigating officer of the criminal case registered qua the accident in question and AW4 Harmail Singh, at whose instance, First Information Report, Exhibit A1, regarding the accident was lodged, factum and manner of the accident that claimed life of the deceased, had been amply proved. It was further contended that the testimony of aforesaid witnesses fortified plea of the applicants that respondent no.1 was negligent in driving the offending vehicle, which resulted into the accident in which the deceased had lost his life. The further contention was that under the scheme incorporated under the Motor Vehicles Act relating to the inquiries by the Motor Accident Claims Tribunal, the proceedings were summary in nature and strict rules of evidence were not applicable. In support of



*his contentions the learned counsel placed reliance upon **National Insurance Company Limited versus Sanjay Kumar & others, 2011(2) Recent Civil Reports 242 (P&H)**. The further argument of the learned counsel for the applicants was that mere registration of the First Information Report qua accident in question would be sufficient to show that the driver of the car in question was rash and negligent in driving the vehicle and there was no need of producing any other evidence to prove negligence on the part of the driver. It was also the argument that though name of driver and number of the offending vehicle did not find mention in the First Information Report but in investigation, involvement of the first respondent with offending vehicle surfaced and first respondent was being tried by the criminal Court for the accident in question and in such a situation, involvement of first respondent and the offending vehicle stood amply proved and standard of proof beyond reasonable doubt could not be applied to the claim cases under Motor Vehicles Act.*

12. Per contra, it was argued by learned counsel for the respondents that factum and manner of the accident remained unproved. The further contention of the learned counsel for the respondents was that false criminal case regarding the accident was got registered by the applicants to get compensation. It was also argued that First Information Report regarding the accident was lodged at the instance of AW4 Harmail Singh, brother of the deceased and thus, there was likelihood of lodging the First



*Information Report on false allegations to get compensation. It was also argued that in this case First Information Report was lodged against unknown person alleging involvement of unknown vehicle and the claimants failed to prove negligence of first respondent and the contention, accordingly, was that when the claimants failed to discharge their onus of proving negligence of first respondent in driving the vehicle, it could not be said that the deceased had died in accident on account of rash and negligent driving of car in question by first respondent. On behalf of respondent no.3, it was also argued that the application was the result of connivance between the applicants and respondents no.1 and 2 with an ulterior motive to get compensation. In support of the arguments, reliance was placed upon **Anita & others versus Narender Singh & others, 2014(1) TAC 319, Smt. Usha Rani & others versus Rajender Singh & others, 2014 (1) TAC 331 (P&H) and Surender Singh & another versus Prem Singh & others, 2015(2) Law Herald 1722 (P&H).***

13. I have anxiously considered rival contentions of the learned counsel for the parties and have gone through the record carefully.

14. In order to prove their case, applicants examined AW4 Harmail Singh, at whose instance, First Information Report, Exhibit A1, regarding the accident was lodged but in cross-examination he admitted that he did not witness the accident in question. Perusal of First Information Report, Exhibit A1, shows that though it was lodged by AW4



Harmail Singh but it was lodged against unknown person and unknown vehicle which implies that even after about 15 hours of the accident when First Information Report was lodged regarding the accident on the next date at 09.05 a.m. the identity of the driver and the vehicle involved in the accident were unknown. Moreover, in the First Information Report, Exhibit A1, AW4 Harmail Singh got recorded that he came to know that one motorcyclist had met with an accident but he did not state that which vehicle hit motorcycle of the deceased. Even by the time of registration of First Information Report, AW4 Harmail Singh was not unaware about the identity of the driver and vehicle but also about the nature of the vehicle which allegedly hit motorcycle of the deceased i.e. whether the offending vehicle was car, jeep, bus, tempo or truck or any other vehicle. AW4 Harmail Singh also did not get it recorded before the police that the accident took place due to rash and negligent driving of any vehicle and rather, he simply got it recorded that when he came to know that one motorcyclist had met with an accident, he reached the spot where his brother and motorcycle were lying at the spot. The entire case of the applicants and evidence led by them is completely silent as to how respondent no.1 as driver and car in question belonging to respondent no.2 were connected with the accident in question. Though on behalf of the applicants, it has been tried to be projected that in the accident bumper of the car had fallen at the spot but in the First information Report, AW4 Harmail Singh did not get it recorded that in the accident



bumper of the car had fallen at the spot. AW1 Head Constable Arvinderpal Singh admitted that in the photographs attached with summoned judicial file of criminal case registered qua the accident, bumper of the car in question was not visible. If bumper of the car had actually been fallen at the spot as has been tried to be projected on behalf of the applicants, there would be no reluctance for AW4 Harmail Singh to get it recorded that some unknown car had hit the motorcycle of the deceased. Moreover, when car in question was taken in possession by the police vide memo (copy Exhibit A5), it has been simply recorded that car in question along with its registration certificate was taken in possession but it has not been recorded that the car without bumper or that car with new bumper, was taken in possession.

15. Further, there is testimony of AW1 Head Constable Arvinder Pal Singh, investigating officer of criminal case who deposed that during investigation, name of respondent no.1 as driver of car in question belonging to respondent no.2 surfaced and accordingly, he arrested first respondent as driver of the car in question. This witness deposed about various steps taken by him in the aid of investigation of the criminal case registered qua the accident in question and proved copies of documents in this behalf as Exhibits A1 to A7. Though this witness deposed that during investigation, name of respondent no.1 and vehicle of respondent no.2 surfaced but he did not clear the air by deposing as to how police came to know that it was respondent no.1 and vehicle of respondent no.2



which were involved in the accident. Otherwise also, if testimony of AW1 Head Constable Arvinder Pal Singh is taken on its face value, even then, this witness merely deposed about involvement of respondent no.1 and vehicle of respondent no.2 but he did not depose that the accident took place on account of rash and negligent driving of car in question belonging to respondent no.2 by respondent no.1. Even in National Insurance Company Limited versus Sanjay Kumar & others (supra) relied upon by learned counsel for the applicants, it was held by Hon'ble High Court of Punjab & Haryana that pendency of a criminal case may not be a concluding factor to prove the negligence.

16. It is a settled legal position that the proof of rashness and negligence on the part of the driver of the vehicle is sine qua non for maintaining an application under Section 166 of the Act. To prove factum of accident alone without proving the rash and negligent driving on the part of the driver shall not entitle the claimants to the grant of compensation in a petition filed under Section 166 of the Act. In this regard, while distinguishing Sections 166 and 163-A of the Act in Oriental Insurance Co. Ltd. versus Meena Variyal, (2007) 5 Supreme Court Cases 428 Hon'ble the Supreme Court ruled as under:

“Therefore, the victim of an accident or his dependants have an option either to proceed under Section 166 of the Act or under Section 163-A of the Act. Once they approach the Tribunal under Section 166 of the Act, they have necessarily to take upon themselves the



burden of establishing the negligence of the driver or owner of the vehicle concerned. But if they proceed under Section 163-A of the Act, the compensation will be awarded in terms of the Schedule without calling upon the victim or his dependants to establish any negligence or default on the part of the owner of the vehicle or the driver of the vehicle”.

17. The rash and negligent driving on the part of the driver of the vehicle under reference can be proved in many ways. The first and foremost evidence can be of an eye witness, who himself/herself has witnessed the accident and can give a first-hand account of the facts resulting into the accident. However, in the case in hand, there is no evidence of eye witness and as per case of the applicants, no body witnessed the accident. In order to prove the accident as alleged by the applicants, applicants examined AW4 Harmail Singh but admittedly he did not witness the accident. Therefore, no weightage can be given to the testimony of the said witness.

18. The contention of the learned counsel for the applicants that mere registration of the First Information Report qua accident in question would be sufficient to show that the driver was rash and negligent in driving the vehicle and there was no need of producing any other evidence to prove negligence on the part of the driver, is devoid of any merit. Principle of res ipsa loquitur can be made applicable when the exact occurrence of the accident is explained, either with the help of statement of an eye witness or with the help of the site plan prepared



by the police. Mere registration of First Information Report against a driver would not lead to the conclusion that he was rash and negligent in driving the vehicle. It is no doubt true that the evidence to be produced before the Claims Tribunal need not be proved beyond reasonable doubt as it is required before a Criminal Court, yet at the same time the negligence on the part of the driver of the vehicle under reference has to be proved as a matter of fact by leading sufficient evidence to satisfy the Court that due to rashness and negligence of a driver, the accident had taken place. However, the applicants have miserably failed to discharge their onus to prove rash and negligent driving of the respondent no.1 on account of which the deceased had lost his life. In Sumitra & others versus Chhotu Ram alias Bharat Singh & others, 2014(1) PLR 102 (P&H), there was no reliable evidence on record to prove that the accident was the outcome of rash and negligent driving of the car by respondent no.1 and finding of the Tribunal dismissing the claim application was upheld by the Hon'ble High Court of Punjab & Haryana.

19. In view of all what has been said and discussed above, it can be safely concluded that the applicants have failed to prove on record that death of deceased took place on account of rash and negligent driving of car in question belonging to respondent no.2, by respondent no.1. Therefore, this issue is decided against the applicants and in favour of the respondents.”



10. A perusal of the impugned award reveals that the learned Tribunal has fallen into patent error in dismissing the claim petition on an erroneous premise that the accident was not the result of rash and negligent driving of the offending vehicle.

11. From the record, it transpires that PW-4 Harmail Singh, the author of the First Information Report, appeared before the learned Tribunal and deposed with regard to the factum of the accident. His testimony, when read as a whole, indicates the occurrence of the accident in the manner alleged and attributes negligence to the driver of the offending vehicle. The learned Tribunal has discarded his testimony on hyper-technical grounds, overlooking that proceedings under the Motor Vehicles Act are summary in nature and strict rules of evidence are not to be applied with rigidity.

12. It is further borne out from the record that though the FIR was initially registered against an unknown vehicle and unknown driver, the investigating agency, upon completion of investigation, identified respondent No.1 as the driver of the offending vehicle and filed a police report under Section 173 Cr.P.C. against him. The testimony of AW-1, Head Constable Arvinder Pal Singh, the Investigating Officer, clearly establishes that respondent No.1 is facing criminal prosecution arising out of the same occurrence. The learned Tribunal has failed to draw the necessary inference from these material circumstances. It is well settled that registration of the FIR followed by investigation culminating in filing of challan is a relevant piece of evidence to establish involvement of the vehicle and *prima facie* negligence of its driver in claim proceedings.



13. Additionally, the material on record indicates that a part of the offending vehicle, its bumper, was found at the site of the accident, which lends corroboration to the involvement of the said vehicle. This circumstance has not been properly appreciated by the learned Tribunal in its correct perspective.

14. Though respondent No.1-driver of offending vehicle stepped into the witness box and denied the involvement of the vehicle, such a bald denial, unsupported by any contemporaneous complaint or representation to higher authorities alleging false implication, does not inspire confidence and cannot outweigh the documentary and circumstantial evidence brought on record by the claimants.

15. It is trite that in proceedings before the Motor Accident Claims Tribunal, the standard of proof is that of preponderance of probabilities and not proof beyond reasonable doubt as required in criminal trials. The approach of the learned Tribunal, however, reflects application of a standard akin to criminal jurisprudence, which is legally unsustainable.

16. In view of the cumulative effect of the evidence on record, this Court is satisfied that the claimants-appellants have successfully established, on the touchstone of preponderance of probabilities, that the accident in question occurred due to rash and negligent driving of the offending vehicle by respondent No.1. Consequently, the findings recorded by the learned Tribunal on the issue of negligence are set aside.

17. 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 learned Tribunal for fresh adjudication of these issues. Learned 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.

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

19. Parties are directed to appear before the learned Tribunal on 05.05.2026.

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

21.04.2025

Ayub/Sahil

(SUDEEPTI SHARMA)
JUDGE

<i>Whether speaking/non-speaking</i>	: <i>Speaking</i>
<i>Whether reportable</i>	: <i>Yes/No</i>