

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

107

FAO-4206-2019 (O&M)

Date of decision: 21.01.2026

Jog Dhian and another

...Appellant(s)

Vs.

Surender Kumar and others

...Respondent(s)

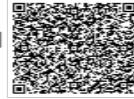
CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ashit Malik, Senior Advocate with
Mr. Maneet Kaushik, Advocate for the appellants.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants against the dismissal of their claim petition by the learned MACT, Kurukshetra (hereinafter referred to as 'the Tribunal'), vide Award dated 12.02.2019 passed in MACP Case No. 259 dated 22.07.2015 filed under Sections 166/140 and 141 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 2 claimants are the parents of the deceased Sumit, who was 24 years old at the time of accident.

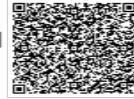
2. It was the pleaded case of the appellants before the learned Tribunal that deceased Sumit had died due to the injuries suffered by him in a motor vehicular accident that took place on 27.05.2015 due to the rash and negligent driving of a Car bearing registration No.HR-07V-3303 (hereinafter referred to as "the offending vehicle") being driven and owned by respondent No.1; and insured by respondent No.2. However, learned Tribunal on the basis of pleadings and evidence adduced before it



concluded that appellants had failed to prove the accident in question and had dismissed the claim petition of the appellants on the ground that *“Petitioners have failed to prove the fact that accident in question has been caused by respondent No.1 while driving the car bearing registration No. HR-07V-3303 at a high speed and in rash and negligent manner.”*

3. It is *inter alia* submitted by learned Senior counsel for the appellants/claimants that in dismissing the Claim Petition, learned Tribunal has failed to appreciate that the accident had taken place when the deceased Sumit alongwith his friends Prabhjot Singh and Surender were going towards Solan. In the accident in question, Sumit had died; and Prabhjot being the only eye-witness had refrained from giving testimony against his friend Surender in the criminal trial, as the offending vehicle was driven and owned by respondent No.1-Surender, who was driving the offending vehicle at the time of accident. It is submitted that in any event, it is settled law that findings given by criminal court cannot be taken into consideration as per the evidence adduced before criminal court.

4. It is contradictorily submitted by learned Senior counsel for the appellants that the Ld. Tribunal has not appreciated the testimony of Prabhjot PW2 who has specifically deposed that the said accident occurred on account of rash and negligent driving of respondent No.1 Surender. It may not be out of place to mention here that since there were two vehicles involved in the said accident, the FIR could have been easily lodged against the driver of the other vehicle, but in the said case the true



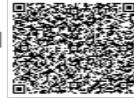
picture has been depicted in the FIR which is written immediately after the accident and inspire the confidence.

5. It is submitted that as the claimants are aged parents of the 24-year-old deceased, this Court may exercise its discretionary jurisdiction to grant Rs.5 lacs to the appellants by way of 'no fault liability'. In support of his prayer, learned counsel for the appellants relies upon judgment passed by Hon'ble Supreme Court in **Ram Murti vs. Punjab State Electricity Board (SC) Law Finder Doc Id # 2091451**. It is accordingly prayed that the present appeal be allowed and compensation be awarded to the appellant.

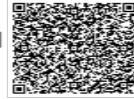
6. No other argument is raised on behalf of the appellants. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made by learned counsel for the appellants.

7. The case as pleaded by the appellants in the claim petition before the learned Tribunal as recorded in para 2 of the impugned Award reads as follows:-

"2 The present petitions under Sections 166, 140 and 141 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act" only) have been instituted by the claimants Jog Dhian & another being L.R.'s of deceased person namely Sumit son of Jog Dhian, resident of village Sirsama, Tehsil Thanesar, District Kurukshetra, and injured Prabhjot Singh son of Sukhwinder Singh, resident of H. No.307, Sector-3, Urban Estate, Kurukshetra with the assertions that on 27.5.2015, Sumit, since deceased, was travelling along with two others in Car bearing registration No.HR-07V-3303 being



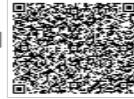
driven by respondent No.1 rashly, negligently and on very high speed and was coming from Pinjore side to Parmanu side. At about 1.30 P.M., when respondent No.1 while driving the offending car rashly, negligently and on very high speed on High Way and reached at village Tipra, Kalka, hit the car in the back of one small Tripper bearing registration No.HP-15B-0861 being driven by respondent No.4 ahead to offending car, which was being driven by respondent No.1, due to that impact said car strangulated badly under the said tripper. Thereafter, Dharam Pal son of Najru Ram, resident of village Tipra, Police Station, Kalka, District Panchkula, who witnessed the accident, reached near the car by running and gone towards the driver side who was injured badly and was speaking and told his name as Surender son of Madan Lal, resident of Haripur, District Kurukshetra. In the meantime, so many people gathered on highway and they took out the car from back side of the Tripper and after opening the windows with great force, took out the injured from the said car; in the meantime an ambulance reached at the spot and took the injured to PGI, Chandigarh, where doctors declared Sumit dead. The accident took place due to the sole rash and negligent driving of respondent No.1 i.e. driver of Car bearing registration No.HR-07V-3303. Respondent No.1 is the sole author of this accident. Hence, all the respondents are jointly and severally liable to pay compensation to the claimants. A case FIR No.74 dated 27.5.2015, under Section 279, 337 and 304-A IPC was got registered in Police Station, Kalka, District Panchkula against respondent No.1 for causing accident and he is facing trial in the Court. Sumit, since deceased, received multiple grievous injuries on various parts of his body due to which he died. Sumit, since deceased, immediately taken to



PGI, Chandigarh where doctors declared him dead. Postmortem of deceased Sumit was conducted by the doctors of said hospital. A sum of Rs.70,000/- was spent on transportation and last rites of the deceased Sumit by the claimants. It is claimed that age of Sumit, since deceased, at the time of accident and death was 24 years and he was a student of B.A. Mass Communication and was also doing the Tuition work and his income was about 15,000/-per month. Thus, the claimants being mother and father of deceased Sumit by filing the present claim petition, have made a prayer for award of 60 Lakhs as compensation along with costs and interest @ 18% per annum from the date of accident till realization."

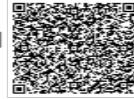
8. It has come on record that pursuant to the accident, FIR No. 74 dated 27.05.2012 was registered against respondent No.1 under Sections 279, 337, 338 and 304 IPC at Police Station Kalka on the basis of statement of injured and eye-witness Prabhjot PW2 alleging that accident in question had taken place due to rash and negligent driving of respondent No.1. However, during the criminal trial, PW2 Prabhjot Singh had taken a totally different version of the accident and had turned hostile and had contrarily stated that the accident in question was not caused due to any rashness or negligence on the part of respondent No.1. Thus, Prabhjot did not support the case of the prosecution against respondent No.1.

9. Admittedly, the claimant side has turned turtle on its previous statement. It is to be appreciated that the present claim petition

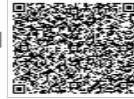


was filed by the claimants with the positive averments that the accident in question had been caused due to the rash and negligent driving of the offending vehicle by respondent no.1. However, in the criminal trial against respondent no.1/Driver, the complainant Prabhjot, had taken a diametrically opposite stand. Thus, respondent no.1 could not be connected with the accident in question and was accordingly acquitted. This Court cannot be a deaf-mute spectator to the two contradictory versions given by the claimant side. No doubt, proceedings under the Act have to be decided on the preponderance of probabilities. However, this Court cannot shut its eyes in an ostrich like manner, to the starkly diametrically opposite stance taken by the claimants' side in the criminal trial. Thus, no credence can be attributed to the subsequent statements made by the claimant side before the learned Tribunal. Therefore, it cannot be said that the accident in question was caused due to the rash and negligent driving of the offending vehicle by respondent No.1; as the same would be contrary to the own statements made by the claimant side. It would therefore appear that the claimant had deposed falsely before the Tribunal only to get the compensation. In such a situation, I find no error in the impugned Award.

10. I find support in my view from a judgment of this Court in "**United India Insurance Company Limited Vs. Kamla Devi & Others**" (P&H) : Law Finder Doc Id # 251230 wherein it has been held that:



"5. It should still have been possible for the Tribunal to take a decision uninfluenced by any decision that may have come before the criminal court. The several decisions which have come about on this issue are to the effect that a judgment in a criminal court is not binding on the Tribunal; the non-filing of a FIR is not material; even the fact of involvement of the vehicle as found by the criminal court is not binding. While the Tribunal is competent to assess the evidence which is brought before it and take an independent decision, then the point that has to be seen is whether there was any evidence worth its name before the Tribunal to come a finding that the particular vehicle was involved in the accident. It can be either that the version of Sitar Mohd. cannot be relied for he has contradicted himself wholesale with the version given before the criminal court or looked for other evidence which was placed before the Court. Alternatively if any explanation had been given by the witness as to why he deposed falsehood before the criminal court, even such an explanation could have been accepted to enter a finding that the accident took place only involving the particular insured's vehicle. In this case, no explanation has been given by the witness as to why he stated before the criminal court that he did not know which vehicle was involved in the accident. He would, on the other hand, defy that he ever made any such statement before the criminal court, necessitating the statement made before the criminal court to be exhibited for contradiction before the Tribunal. It must be remembered a statement in criminal court case by a witness is also on oath. If he was uttering falsehood, he was liable for perjury. If there was contradiction between the version elicited before the Tribunal to the statement made before the



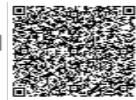
criminal court then such a witness will be unworthy of acceptance. The Tribunal could have simply rejected the whole evidence. If it was going to pick out one line from chief examination to say that the insured's vehicle was involved in the accident, the Tribunal was doing something which is not a judicial function but a travesty of justice. ""

11. The above said view has been reiterated by this Court in "**Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others**" FAO-2231-2014 decided on 03.12.2019, wherein it is held as under:-

*"(6) This Court cannot loose sight of the judgment rendered by this Court in the case of **United India Insurance Company Limited versus Kamla Devi and others**, wherein it was specifically held that in case an eye witness gives totally different version before the Court conducting trial in criminal case from the statement made by the said eye witness before the Tribunal, the testimony of such a witness is unworthy of being accepted and the evidence should be simply rejected. In fact, the learned Single Bench came down heavily on such witness and held that the said witness is also liable for perjury."*

12. I am in agreement with the abovesaid view taken by my worthy predecessors that the claimant side is liable for perjury for making contradictory statements before two Courts of Law.

13. Learned counsel for the appellants has been unable to dispute the abovesaid factual and legal position.



14. The aforesaid judgment relied upon by learned counsel for the appellants is distinguishable on facts and law and the appellants cannot derive any benefit from the said judgment.

15. In view of the above, present appeal is **dismissed**.

16. Pending application(s) if any also stand(s) disposed of.

21.01.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

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