

FAO No. 4444 of 2004(O&amp;M)

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

(102)

FAO No. 4444 of 2004(O&amp;M)

Reserved on: 09.04.2026

Pronounced on: 17.04.2026

Uploaded on: 17.04.2026

Gursharan Singh

...Appellant

Versus

Kirpal Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL****Present:-** Mr. Kulwant Singh Dhanora, Advocate,  
for the Appellant.Mr. Gaurav Gupta, Advocate  
for the Respondent No.3/Insurance Company.

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**VIRINDER AGGARWAL, J.**

1. The present appeal has been filed by the injured-appellant challenging the award dated 15.05.2004 passed by the learned Motor Accident Claims Tribunal, Kurukshetra, whereby the claim petition instituted by the injured-appellant seeking compensation for the injuries sustained in a motor vehicular accident dated 06.09.2002 came to be dismissed.

**BACKGROUND FACTS**

2. The brief facts giving rise to the present appeal are that on 06.09.2002 at about 7:00 p.m., the appellant-Gursharan Singh was walking towards his village Jalkheri on the kachcha berm on the left side of the road when a motorcycle bearing registration No. HR-07E-9108, allegedly driven by respondent No.1 Kirpal Singh in a rash and negligent manner, came from the opposite direction, moved to the wrong side and struck him. As a result, the appellant sustained multiple grievous injuries and was admitted to the hospital of Dr. P.K. Soni at Kurukshetra for treatment, while respondent No.1 allegedly fled from the spot.



FIR No.96 dated 11.09.2002 was thereafter registered at Police Station Babain with a delay of five days. On account of the injuries suffered in the said accident, the appellant filed a claim petition under Section 166 and Section 140 and 141 of the Motor Vehicles Act before the Motor Accident Claims Tribunal, Kurukshetra, seeking compensation for the injuries, medical expenses, pain and suffering caused due to the alleged rash and negligent driving of the offending vehicle.

3. Upon appreciation of the evidence led by the parties, the learned Motor Accident Claims Tribunal, Kurukshetra returned findings against the claimant on Issue No.1 regarding the occurrence of the accident due to rash and negligent driving and the involvement of the alleged offending motorcycle. The learned Tribunal observed that although the accident was stated to have taken place on 06.09.2002, no report was lodged with the police immediately thereafter and the FIR was registered only on 11.09.2002 after a delay of five days. The explanation furnished during evidence regarding such delay was held to be an afterthought, as it was neither pleaded in the claim petition nor reflected in the FIR. Further, the learned Tribunal found the testimonies of the claimant Gursharan Singh (PW-3) and his father Gurdas Singh (PW-4) to be unreliable. Reliance was also placed on the statement of Dr. P.K. Soni, who deposed that on the very day of the alleged accident the appellant's father had given in writing that they did not want any police action as the matter was their personal affair, and that only on 11.09.2002 they later sought police action. Moreover, the learned Tribunal also considered the claimant's version that he was walking on the kachcha berm on the left side of the road and that the motorcycle coming from the opposite direction crossed the entire road to hit him on the berm to be highly improbable. In view of these circumstances, the



learned Tribunal held that the claimant had failed to establish that the accident occurred due to the rash and negligent driving of respondent No.1 or that the motorcycle bearing registration No. HR-07E-9108 was involved in the accident. Consequently, Issue No.1 having been decided against the claimant, the claim petition was dismissed.

### CONTENTIONS

4. Learned counsel for the appellant contends that the learned Tribunal has erred in discarding the evidence led by the claimant. It is submitted that the testimony of the appellant (PW-3) was duly corroborated by the statement of his father Gurdas Singh (PW-4). Learned counsel further argues that the mere delay of five days in lodging the FIR could not have been made a ground to reject the claim, particularly when respectable persons of village Kharindawa (village of respondent No.1) had assured payment of treatment expenses and later respondent refused, whereafter the FIR was lodged. It is also submitted that the proceedings before the Motor Accident Claims Tribunal are summary in nature and the standard of proof is only that of preponderance of probabilities. Thus, the impugned award, being based on conjectures and misappreciation of evidence, deserves to be set aside.

5. Per contra, learned counsel appearing on behalf of respondent No.3/Insurance Company supports the impugned award and submits that the learned Tribunal has correctly appreciated the evidence on record. It is argued that the claimant has failed to prove the basic factum of the accident involving the alleged offending motorcycle. It is further submitted that the FIR was lodged after an unexplained delay of five days and the explanation offered by the claimant was neither pleaded in the claim petition nor mentioned in the FIR. The testimony of the claimant and his father, being interested witnesses, was



rightly viewed with caution by the Tribunal. Learned counsel, therefore, submits that the findings recorded by the learned Tribunal are well reasoned and do not warrant interference by this Court.

### **OBSERVATIONS AND FINDINGS**

6. I have heard learned counsel for the parties and have carefully perused the pleadings, the oral and documentary evidence adduced on record, the impugned award passed by the learned Motor Accident Claims Tribunal, Kurukshetra and the entire paper-book.

7. The principal evidence in support of the claim consists of the testimony of the appellant-Gursharan Singh (PW-3), who is the injured himself, and his father Gurdas Singh (PW-4). PW-3 has categorically deposed that on 06.09.2002 at about 7:00 p.m. he was walking on the kachcha berm on the left side of the road towards village Jalkheri when a motorcycle bearing registration No. HR-07E-9108, driven by respondent No.1 Kirpal Singh in a rash and negligent manner, came from the opposite direction, veered to the wrong side of the road and struck him. As a result of the impact, the appellant sustained grievous injuries including fracture of the right leg. It has further come in the deposition of the witnesses that immediately after the accident respondent No.1 fled from the spot. The testimony of PW-3 being that of an injured witness carries great evidentiary value and there is no reason to disbelieve the same in the absence of any material contradiction.

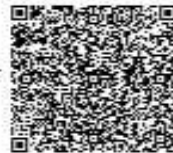
8. Furthermore, PW-3 and PW-4 have also furnished a satisfactory explanation regarding the delay in lodging the FIR. They have deposed that several respectable persons of village Kharindawa, including Satpal Singh, Chairman, and Mehar Singh, Ex-Sarpanch, assured the appellant's father on the very day of the occurrence that the medical expenses of the injured would be



borne by them and, therefore, requested that no police case be registered. Acting upon such assurances, the family initially refrained from approaching the police. However, when despite repeated visits for 4-5 days the promised assistance was not forthcoming, the FIR was ultimately registered on 11.09.2002. This explanation for the delay of five days appears to be natural, plausible and in consonance with the rural social milieu, where efforts for amicable settlement are often made before resorting to legal proceedings. The learned Tribunal, in the considered view of this Court, erred in discarding the said explanation by terming it an afterthought and has not taken into account the realities of everyday life.

9. It is well settled that mere delay in lodging the FIR cannot, by itself, be a ground to reject a genuine motor accident claim. In this regard, reference may be made to the judgment of the Hon'ble Supreme Court in *New India Assurance Co. Ltd. v. Velu & Anr. 2025 (1) TAC 23*, wherein it has been held that delay in registration of the FIR is not fatal where there exists other reliable evidence supporting the occurrence of the accident. Applying the said principle to the facts of the present case, it is evident that the delay of five days stands duly explained by the consistent testimonies of PW-3 and PW-4, and is further supported by the medical evidence and the police investigation culminating in the filing of the challan against respondent No.1. Thus, unlike cases where delay remains unexplained or where no other material corroborates the occurrence, the present case is supported by cogent oral as well as documentary evidence and medical record. Delay in lodging the FIR does not in any manner dent the credibility of the claimant's version.

10. Moreover, the version of the claimant stands corroborated by the police record. The report submitted under Section 173 Cr.P.C. (Ex.P9) as well as the



site plan (Ex.P10) show that the police, after conducting investigation, found sufficient material against respondent No.1 and proceeded to challan him. It is also not in dispute that respondent No.1 is facing criminal trial arising out of the said accident. The fact that the investigating agency found prima facie material to prosecute respondent No.1 lends considerable support to the claimant's case regarding the manner of the accident and the involvement of the offending motorcycle.

11. The medical evidence also lends assurance to the version of the claimant. The appellant was immediately taken to the hospital of Dr. P.K. Soni at Kurukshetra where he was medically examined and treated. The medical record shows that the appellant had sustained grievous injuries including fracture of the right leg. The prompt medical treatment received by the injured soon after the occurrence corroborates the factum of the accident. Further, the initial reluctance of the family to involve the police appears to have been on account of the assurances given by the villagers regarding payment of medical expenses. Evidence remained unrebutted. Respondent no.1 has not stepped into witness box to rebut the version of claimant.

12. At this stage, it is also necessary to notice that the standard of proof required in motor accident claim cases is not the strict standard applicable in criminal trials but that of preponderance of probabilities. Reference in this connection may also be made to the observations made by the Court in the case of ***Sunita & Ors. v. Rajasthan State Road Transport Corporation & Ors. 2020 (13) SCC 486***, wherein it was observed as under :-

*"It is thus well settled that in motor accident claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, then the Tribunal's role would be to calculate the*



*quantum of just compensation if the accident had taken place by reason of negligence of the driver of a motor vehicle and, while doing so, the Tribunal would not be strictly bound by the pleadings of the parties. Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases."*

13. Applying the aforesaid principles to the facts of the present case, this Court is satisfied that the claimant has successfully proved the foundational facts of the accident. The consistent testimony of PW-3 and PW-4, the police investigation culminating in the filing of the challan against respondent No.1 and the fact that respondent No.1 is facing criminal trial, coupled with the medical evidence regarding the injuries sustained by the appellant, collectively establish the occurrence of the accident and the involvement of motorcycle bearing registration No. HR-07E-9108.

14. Further, the learned Tribunal had also doubted the appellant on the ground that it was improbable for the motorcycle coming from the opposite direction to cross over and strike the appellant who was walking on the kachcha berm. In the opinion of this Court, such a conclusion is not supported by any cogent material on record. On rural roads it is not uncommon for vehicles to be driven carelessly or to veer to the wrong side of the road. In the absence of any convincing rebuttal evidence from the respondents, the version put forth by the claimant cannot be discarded as improbable.

15. In view of the findings recorded above, this Court holds that the accident in question occurred due to the rash and negligent driving of motorcycle bearing registration No. HR-07E-9108 by respondent No.1 Kirpal



Singh. Issue No.1 is accordingly decided in favour of the appellant and against the respondents.

16. Since the learned Tribunal had dismissed the claim petition after deciding Issue No.1 against the claimant and had not returned any findings on the remaining issues relating to the quantum of compensation and liability, the matter requires reconsideration on those aspects. Consequently, the impugned award dated 15.05.2004 passed by the learned Motor Accident Claims Tribunal, Kurukshetra is **set aside**.

17. Accordingly, the appeal is **allowed** and the matter is **remanded back** to the learned Tribunal for determination of the quantum of compensation payable to the claimant in accordance with law. The learned Tribunal shall decide the matter expeditiously, preferably within a period of two months on the basis of evidence available on record and after affording an opportunity to parties of hearing.

18. Since the main case has been decided, pending any application(s), if any stands also disposed of.

**17.04.2026**  
*Saurav Pathania*

**(VIRINDER AGGARWAL)**  
**JUDGE**

(i) *Whether speaking/reasoned* : *Yes/No*  
(ii) *Whether reportable* : *Yes/No*