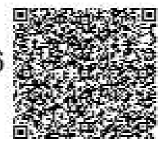
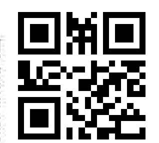



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(206)

F.A.O. No. 2914 of 2003(O&M)
Reserved on:13.03.2026
Pronounced on: 18.03.2026
Uploaded on: 19.03.2026

Nita and Another …Appellants

Versus

Jeet Singh and Another …Respondents

CORAM : HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present : Mrs. Vamika Johar, Advocate for
Mr. Pritam Singh Saini, Advocate,
for the appellant.

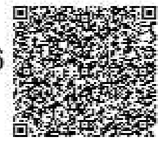
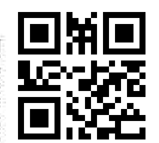
Mr. Parminder Singh, Advocate
for the respondents.

VIRINDER AGGARWAL,J.

1. The present appeal is directed against the award dated 02.04.2003 passed by the Motor Accident Claims Tribunal, Panipat vide which the claim petition filed by the appellants under Section 166 of the Motor Vehicles Act was dismissed and compensation of Rs.50,000/- only on the basis of "no fault liability" under Section 140 of the Act was granted.

BACKGROUND FACTS

2. On 01.02.2000, the deceased Bhagwan Dass, aged about 26 years, son of Zile Singh, was allegedly travelling in the trolley attached to the Mahindra tractor bearing registration No.HR-05C-2140 owned by respondent No.2 and driven by respondent No.1-Jeet Singh. On the fateful day, the tractor trolley is alleged to have turned turtle near the Dera of Ved Park after the driver lost control, struck against a Kikar tree, and the deceased fell underneath the tractor and died. Immediately after the accident, only a DDR (Mark B) was lodged by

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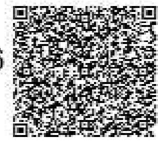
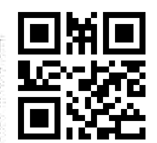
the father of the deceased (Zile Singh), who was stated to be an illiterate person. No FIR was registered at that time. The appellants (widow Ratti and mother Nita Devi) filed the claim petition on 05.02.2003 before the learned Tribunal claiming compensation on account of the death of Bhagwan Dass. It was alleged that the deceased was earning Rs.4,000/- per month.

3. The learned Tribunal, after appreciating the oral and documentary evidence on record, returned a specific finding that the appellants had failed to prove rash and negligent driving on the part of respondent No.1. It was observed that the initial DDR (Mark-B) recorded by Zile Singh contained no allegation whatsoever of rash and negligent driving. The learned Tribunal further noted that the FIR was registered only after a delay of about 11 months, which created serious doubt about the genuineness of the version. The alleged eye-witness Malkiat Singh was not named either in the DDR or in the initial statement of Zile Singh (Mark-A). The learned Tribunal accordingly held that negligence was not established and awarded Rs.50,000/- only under no-fault liability, which was the statutory minimum payable irrespective of proof of fault.

CONTENTIONS

4. Learned counsel for the appellants vehemently argued that the impugned award is liable to be modified. She submitted that even if the FIR was lodged belatedly and the police initially registered only a DDR, the claim petition is maintainable on the strength of independent evidence. She placed reliance upon the post-mortem report (Ex.PA), the copy of the FIR (though belated), and the testimony of eye-witness Malkiat Singh. It was further contended that the driver/Respondent no.1 Jeet Singh had admitted in his cross-examination that the trolley turned turtle while he was driving the tractor and that Bhagwan Dass

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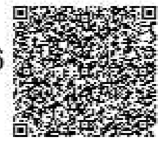
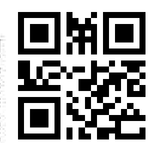
fell down. Learned Counsel urged that the learned Tribunal erred in law in not appreciating that negligence can be proved by circumstantial and oral evidence even if the police report is delayed or defective. She prayed that the appeal be accepted and compensation be enhanced as per settled principles of law.

5. Learned counsel for the respondent supported the award and prayed for dismissal of the appeal. He submitted that the claim petition itself does not contain any specific pleading regarding the manner in which the driver drove the tractor rashly and negligently. The initial DDR (Mark-B) recorded by the father of the deceased is completely silent on the issue of rash and negligent driving. The FIR was registered only after 9 months of filing of the claim petition and 11 months of the accident, which clearly indicates that the story of negligence was an afterthought introduced to inflate the claim. The name of the so-called eye-witness Malkiat Singh does not find mention either in the statement of Zile Singh (Mark A) or in the DDR (Mark B), rendering his testimony highly unreliable and tutored. The allegation that the tractor collided with a Kikar tree due to rash driving could not be corroborated by any independent evidence. Thus he submitted that the findings of the learned Tribunal are based on correct appreciation of evidence and call for no interference.

<u>OBSERVATIONS AND FINDINGS</u>

6. I have heard learned counsel for both sides at length and have carefully perused the entire record of the case. The core issue that arises for determination is whether the appellants have been able to discharge the onus of proving rash and negligent driving on the part of respondent No.1 so as to entitle them to compensation on the basis of fault liability under Section 166 of the Motor Vehicles Act or not.

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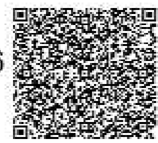
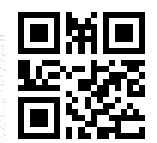
7. In the instant case, though in the pleadings the claimants have alleged that the accident occurred solely due to the rash and negligent driving of the driver, the father of the deceased, Zile Singh, who was the first person to report the matter to the police, did not mention even a whisper about rash and negligent driving and that the tractor hit a Kikar tree in the his first statement (Mark A) and DDR (Mark-B). This initial document, prepared contemporaneously with the incident, is the most natural and reliable piece of evidence. Its silence about negligent driving completely demolishes the case of the appellants on this score. Further, the belated registration of the FIR after approximately 9 months of the filing of the claim petition (and 11 months of the accident) further weakens the appellants' case. Courts have repeatedly held that such inordinate delay in lodging the FIR in motor accident cases raises a strong presumption of concoction and afterthought. The version of negligence appears to have been introduced only after the claim petition was filed with a view to seek higher compensation.

8. Moreover, the evidence of the alleged eye-witness Malkiat Singh also does not inspire confidence. His name is conspicuously absent both from the DDR (Mark-B) and from the statement of Zile Singh (Mark-A). Had he been a genuine eye-witness present at the spot, his name would certainly have found mention in the initial report. His testimony, therefore, appears to be an improvement and cannot be relied upon to prove negligence. Jeet Singh, the driver of the tractor (respondent No.1), was the best and most material witness in the case. Even if the doctrine of res ipsa loquitur were to apply, it was incumbent upon him to explain the circumstances, and he simply admitted that "hook of trolley got removed from the tractor and the trolley turned turtle" without admitting any rash or negligent driving on his part and that tractor hit

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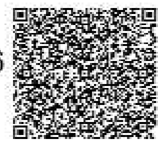
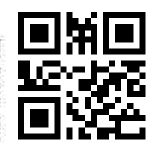
with the Kikkar tree. The claimants failed to discharge the onus of proving negligence despite this admission that trolley tunred turtle after hook got unfastened and have not led any evidence to rebut the explanation given by the driver. Further, the specific allegation that the tractor struck against a Kikar tree due to rash and reckless driving of Jeet Singh has also not been established by any cogent evidence. There is no site plan, no mechanical inspection of the tractor, no seizure memo, and no independent public witness except the doubtful Malkiat Singh. Thus, the learned Tribunal has rightly appreciated the aforesaid glaring deficiencies in the evidence and has correctly concluded that negligence could not be proved on the part of the respondent, thereby disentitling them to compensation on that basis.

9. It is a settled proposition of law that in a claim petition under Section 166 of the Motor Vehicles Act, the burden squarely lies upon the claimants to prove that the accident occurred due to rash and negligent driving of the offending vehicle, though the standard of proof is that of preponderance of probabilities. The strict proof of negligence is not required in motor accident claim cases and the learned Tribunal may arrive at its conclusion on the basis of probabilities and surrounding circumstances. The claimants must still place some material on record to establish negligence which remains a necessary requirement for maintaining a claim under Section 166 of the Act. In ***Oriental Insurance Co. Ltd. v. Meena Variyal & Ors. 2007 (5) SCC 428*** and ***Surender Kumar Arora v. Dr. Manoj Bisla, 2012 (4) SCC 552***, It is settled that the claimant must establish, by cogent evidence, the factum of the accident, the involvement of the offending vehicle, and rash and negligent driving by the driver. In the absence of proof of these essential elements the claim cannot be entertained.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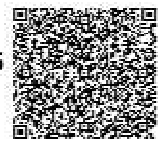
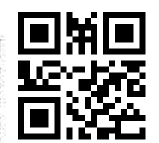
10. The cumulative effect of the above circumstances creates serious doubt regarding the version put forth by the claimants. The findings recorded by the learned Tribunal are based upon a proper appreciation of the evidence on record and cannot be said to be perverse or contrary to the material available on the file. In the present case, no such infirmity has been pointed out which may warrant interference by this Court in appellate jurisdiction.

11. In view of the foregoing discussion, this Court is of the considered opinion that the claimants have failed to establish negligence on the part of respondent No.1 and therefore are not entitled to compensation under Section 166 of the Motor Vehicles Act. Hence, the dismissal of the claim under Section 166 is, therefore, upheld. Further, the learned Motor Accident Claims Tribunal has rightly awarded ₹50,000/- under the principle of no-fault liability under Section 140 of the Act, even though claim petition was not filed under the section 140 of the Act.

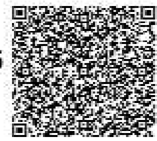
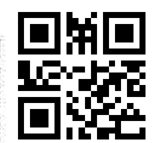
12. However, during the pendency of the present appeal, Section 140 of the Motor Vehicles Act, 1988, which originally provided for compensation on the principle of “no-fault liability”, came to be repealed and substituted by Section 164 by virtue of Act 32 of 2019, with effect from 01.04.2022. Section 164 is a beneficial provision under Chapter XI providing for payment of fixed compensation on a no-fault basis: ₹5,00,000/- in case of death and ₹2,50,000/- in case of grievous hurt. Sub-section (2) of Section 164 explicitly provides that the claimant shall not be required to plead or establish that the death or grievous hurt was due to any wrongful act, neglect or default of the owner or driver of the vehicle or of any other person.

13. The Motor Vehicles Act is a piece of social welfare and beneficial legislation. It is well settled that such statutes must receive a liberal and

purposive interpretation so as to advance the object of providing just and speedy compensation to victims of road accidents and their dependents, without defeating the grant of relief on hyper-technical or procedural grounds. Statutory amendments enhancing the measure of relief, particularly in no-fault liability provisions, can be applied to pending proceedings where they do not impair any vested rights but only advance the cause of justice.

14. The Hon'ble Supreme Court in ***Ram Murti & Ors. vs. Punjab State Electricity Board, 2022(4) TAC 738***, granted the benefit of ₹5,00,000/- under Section 164 even in a case where the claim under Section 166 was dismissed for want of proof of negligence and the accident was of the year prior to the amendment. The Apex Court emphasized that beneficial provisions enacted by Parliament under Chapter XI must be extended to advance the object of social welfare legislation. Similar view has been taken by the Hon'ble Supreme Court in ***New India Assurance Co. Ltd. v. Urmila Halder, 2024 SCC OnLine SC 4983*** and by this Court in ***Nisha Rani & Ors. vs. Parminder Kaur & Others, 2024 NCPHHC 146726***, wherein claims dismissed under Section 166 for failure to prove rash and negligent driving were converted and compensation awarded under Section 164 on the basis that the accident arose out of the use of a motor vehicle. In the instant case, the accident and resultant death of Bhagwan Dass having been proved on record and the claim petition being pending in appeal, the appellant is entitled to the benefit of the fixed no-fault compensation under Section 164 of the Act. The fact that the petition was filed under Section 166 and negligence could not be proved is no bar, as the statute itself exempts the claimant from proving fault under the no-fault regime. Denying compensation in these circumstances would be contrary to the remedial and welfare-oriented object of the Act and would perpetuate injustice.

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15. In view of the foregoing, the appeal is **partly allowed**. The award of the learned Tribunal dismissing the claim petition under Section 166 is upheld insofar as fault liability is concerned. However, the appellant is held entitled to fixed compensation of ₹5,00,000/- (Rupees Five Lakhs only) under Section 164 of the Motor Vehicles Act on no-fault basis. The said amount shall carry interest at rate of 7% per annum from the date of amendment in Motor Vehicle Act came into operation till realization. Since the death of Bhagwan Dass occurred in a motor vehicular accident involving the Tractor-Trolley, which was not insured at the time of the accident, the owner of the said vehicle shall be liable to pay the aforesaid amount to the claimants along with accrued interest.

16. Accordingly, the appeal stands disposed of in the aforesaid terms.

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

(VIRINDER AGGARWAL)
JUDGE

18.03.2026
Saurav Pathania

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