



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

**FAO No. 833 of 2003 (O&M)  
DATE OF DECISION: 06.03.2026**

**KRISHAN KUMAR MITTAL**

**.....APPELLANT**

**Vs.**

**RAJNESH ANAND AND OTHERS**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present: Mr. Rahul Sharma, Advocate, for  
Mr. B.S. Bhalla, Advocate,  
for the appellant.

Mr. Suvir Dewan, Advocate,  
for respondent No. 3-insurance company.

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**AMARINDER SINGH GREWAL, J.**

1. The appellant, Krishan Kumar Mittal, son of Sh. Kulwant Rai, has filed the present appeal against the Award dated 13.01.2003 passed by the learned Motor Accidents Claims Tribunal, Moga (for short, "*the Tribunal*"), whereby the claim petition filed by the claimant (the appellant herein) before the Tribunal was dismissed.

2. The brief facts of the case are that the appellant-claimant, Krishan Kumar Mittal, filed MACT Case No. 38 dated 10.11.2000 before the Tribunal, Moga, wherein it was submitted that on 02.10.1998 at about 11:00 a.m., the claimant (the appellant), along with one Surjit Singh, was travelling in a Maruti car bearing No. PB-29-1090 from Moga to Village Kokari Kalan. When they reached near Village Matwani, near Police Station Mehna, a 'Swaraj Mazda' ('*Canter*') bearing No. PB-05-A-9698



came from the opposite side. The said vehicle was being driven by its driver in a rash and negligent manner and, while overtaking a scooter, first hit the scooter and thereafter rammed into the Maruti car of the claimant (the appellant), causing a head-on collision. Due to the accident, the claimant sustained multiple grievous injuries.

2.1 The accident was witnessed by Surjit Singh (PW-5), who took the claimant (the appellant) to Dr. Jawahar's Hospital, Moga. Thereafter, the claimant was shifted to Madan Hospital, Amritsar. The claimant remained admitted as an indoor patient from 02.10.1998 to 08.10.1998 at Amritsar and was operated upon on 04.10.1998. Thereafter, the claimant (the appellant) visited Amritsar for follow-up treatment on 13.11.1998, 23.12.1998 and 25.02.1999. He was again admitted to Karam Singh Memorial Hospital, Amritsar on 24.03.1999, where he was operated upon on 26.03.1999 and discharged on 02.04.1999. He also visited the said hospital for follow-up treatment on 09.04.1999 and 17.04.1999. Thereafter, he remained admitted to Pahwa Charitable Hospital, Ludhiana from 28.08.1999 to 04.09.1999 for physiotherapy and also visited Dr. Prem Singh's Bone and Joint Hospital for treatment.

2.2 It was stated that the claimant incurred approximately ₹2,00,000/- on his treatment, including expenses on medicines, doctor's fees, hospitalization, transportation and diet, etc. On the basis of these facts, the claimant (the appellant) filed the claim petition before the Motor Accidents Claims Tribunal, Moga, seeking compensation to the tune of ₹9,00,000/-.



2.3 Notice of the claim petition was issued to the respondents. Respondents No. 1 and 2, being the owner and driver of the vehicle, filed their written statement raising preliminary objections that the claim petition was time-barred; that the petition was not maintainable; that the claimants had no cause of action against the respondents; that the claim petition was bad for non-joinder of necessary parties; and that respondents No. 1 and 2 were not liable to pay any compensation as the 'offending Canter' was insured with respondent No. 3-Oriental Insurance Company. A prayer was made that the claim petition be dismissed.

2.4 A separate written statement was filed by respondent No. 3-Oriental Insurance Company, raising preliminary objections that respondent No. 3 was not liable to pay compensation because, as per the photocopy of the cover note produced on record, respondent No. 1 was not the owner of the 'offending vehicle'; that the driver of the 'offending Canter' was not holding a valid and effective driving licence at the time of the accident; and that no FIR was registered regarding the alleged accident against respondent No. 2-driver Dharamjit Singh. A prayer was also made that the claim petition, being devoid of merit, be dismissed.

2.5 From the pleadings of the parties, the following issues were framed by the learned Tribunal on 20.09.2001:-

1. *“Whether on 02.01.1998 Krishan Kumar Mittal claimant received injuries due to rash and negligent driving of Swaraj Mazda bearing registration No. PB-05-A-9698 by Dharamjit Singh respondent No. 2-driver? If so, its effect? OPP*
2. *Whether Dharamjit Singh driver was not holding a valid driving*



*licence at the time of alleged accident? OPR*

3. *Whether the claim petition is not maintainable? OPR (1 & 2)*

4. *Relief.”*

2.6 In support of his claim, the claimant (the appellant) examined Dr. Rachhpal Singh as PW-1; Dr. Vakinder Pal Singh, Medical Officer, Dr. Karam Singh Memorial Hospital, Amritsar, as PW-2; Constable Lakhwinder Singh as PW-3; K.S. Bawa, Surveyor, as PW-4; Surjit Singh as PW-5; and himself as PW-6, and thereafter closed his evidence.

2.7 To the contrary, counsel for respondents No. 1 and 2 examined Dharamjit Singh (respondent No. 2-driver) as RW-1. Thereafter, counsel for the respondents tendered into evidence a copy of the insurance policy (Ex. R-1) and closed their evidence.

2.8 The learned Tribunal, Moga, after appreciating the evidence led by the parties, dismissed the claim petition vide Award dated 13.01.2003.

2.9 Aggrieved against the said Award dated 13.01.2003, the appellant (the claimant) has filed the present appeal.

3. At the very outset, learned counsel for the appellant submitted that the impugned Award dated 13.01.2003 passed by the learned Tribunal, Moga, is contrary to law and deserves to be set aside.

4. It was further contended that the learned Tribunal has recorded findings which are contrary to the provisions of law and the facts of the case and, therefore, the same are liable to be set aside. It was argued that only ₹75,000/- has been awarded on account of 52% disability, despite the appellant having claimed compensation of ₹9,00,000/-. The learned



Tribunal failed to appreciate that the appellant-claimant was working as a Development Officer in an insurance company and, due to his disability, he would be shifted to administrative duties, thereby causing a loss of approximately ₹2,000/- per month in his salary.

5. It was further contended that in order to prove that respondent No. 2-Dharamjit Singh had caused the accident, due to which the appellant suffered injuries, the claimant (the appellant), besides examining himself as PW-6, also examined Surjit Singh (PW-5), who was an occupant of the Maruti car and an eye-witness to the occurrence. Both witnesses deposed regarding the manner in which respondent No. 2-Dharamjit Singh, while driving the 'Canter' bearing No. PB-05-A-9698 in a rash and negligent manner, caused the accident resulting in injuries to the claimant (the appellant).

6. It was further contended that the claimant had examined all the doctors who treated him, and their testimonies clearly establish that the appellant sustained injuries in the accident caused due to the rash and negligent driving of respondent No. 2-Dharamjit Singh. Thus, the ingredients of Section 166 of the Motor Vehicles Act, 1988 stood proved before the learned Tribunal, but the learned Tribunal wrongly concluded that the accident was not proved. A prayer was made that the Award dated 13.01.2003 passed by the learned Tribunal be set aside and the claimant-appellant be awarded compensation of ₹9,00,000/-.

7. On the other hand, learned counsel for respondent No. 3-insurance company submitted that since the appellant had failed to prove that the accident was caused by respondent No. 2-Dharamjit Singh while



driving a 'Canter' bearing No. PB-05-A-9698, the learned Tribunal had rightly dismissed the claim petition. A prayer was made that the appeal, being meritless, be dismissed.

8. After hearing learned counsel for the parties and perusing the entire case file, this Court is of the considered view that the onus was upon the appellant to prove before the learned Tribunal that on 02.10.1998 the claimant-appellant sustained injuries due to the rash and negligent driving of respondent No. 2-Dharamjit Singh while driving 'Swaraj Mazda' ('Canter') bearing No. PB-05-A-9698. However, the appellant has failed to prove the same before the learned Tribunal, Moga.

9. As per the evidence on record, the alleged accident took place on 02.10.1998 at about 10:00 a.m. while the claimant-appellant, along with Surjit Singh (PW-5), was travelling from Moga to Village Kokari Kalan. When they reached near Village Matwani, near Police Station Mehna, a 'Swaraj Mazda' ('Canter') bearing No. PB-05-A-9698 came from the opposite side and was allegedly being driven by respondent No. 2-Dharamjit Singh in a rash and negligent manner. Respondent No. 2, while overtaking a scooter, struck the scooter and thereafter collided with the car of the appellant, as a result of which the appellant-claimant allegedly sustained injuries.

10. In the present case, even if it is assumed that the appellant was injured in the alleged accident caused by respondent No. 2-Dharamjit Singh, it remains unexplained as to why Surjit Singh (PW-5), being an occupant of the car, did not get an FIR registered against respondent No. 2-Dharamjit Singh. Surprisingly, no FIR was registered against respondent



No. 2-Dharamjit Singh. Instead, a DDR No. 37 dated 05.10.1998 (Ex. A-4) was recorded by ASI Resham Singh. The contents of DDR No. 37 dated 05.10.1998 reveal that an accident had taken place involving a 'Canter', a Maruti Car and a Scooter. However, it was only mentioned that the occupants of the vehicles had sustained injuries and had been admitted to hospital, but the place of admission of the injured persons could not be ascertained.

11. As noted above, the DDR No. 37 dated 05.10.1998 (Ex. A-4) was neither lodged by the claimant Krishan Kumar Mittal nor by the alleged eye-witness Surjit Singh. Even in the said DDR (Ex. A-4), the name of the driver and the particulars of the 'offending vehicle' were not mentioned. Rather, it was stated by ASI Resham Singh that he tried to locate the injured persons in various hospitals at Moga but could not trace them.

12. Further, it is not the case of the appellant before the learned Tribunal that either he or Surjit Singh (PW-5) was unfit to make a statement before the police after the accident or that they had become unconscious after the accident. Therefore, the failure to lodge an FIR or DDR by the appellant himself or by the alleged eye-witness Surjit Singh (PW-5) raises doubt regarding the allegation that the accident was caused by respondent No. 2-Dharamjit Singh.

13. Further, although photographs of the 'offending vehicle' were taken, Surjit Singh (PW-5), during his cross-examination, stated that he could not recognize the vehicle which had caused the accident or its number. Thus, PW-5 Surjit Singh, being an eye-witness, was also unable to



connect respondent No. 2-Dharamjit Singh with the alleged accident.

14. Further, as per the evidence, PW-5 Surjit Singh had also sustained injuries in the accident. However, during cross-examination, he admitted that he had never filed any claim petition against the respondents for compensation.

15. Further, as per the evidence, respondent No. 2-Dharamjit Singh first struck his '*Canter*' against a '*Scooterist*' before colliding with the Maruti car of the appellant. In such circumstances, it was the duty of the investigating officer to record the statement of the said '*Scooterist*', which was not done in the present case.

16. Further, a survey was conducted by K.S. Bawa (PW-4). In the surveyor's report (Ex. A-5) submitted before the learned Tribunal, K.S. Bawa (PW-4) mentioned the place of accident as being near Village Mehna, whereas the case of the appellant is that the accident took place near Village Matwani. Thus, there is a material discrepancy regarding the place of the accident.

17. Therefore, in the present case, the burden was upon the appellant to prove that it was respondent No. 2-Dharamjit Singh who had caused the accident resulting in injuries to the appellant. However, as discussed above, neither any FIR was registered against respondent No. 2-Dharamjit Singh nor was the DDR recorded at the instance of the appellant or Surjit Singh (PW-5). Consequently, the learned Tribunal, after appreciating the entire evidence on record, rightly dismissed the claim petition.



18. Consequently, the present appeal, being devoid of merit, is hereby dismissed.

19. Pending miscellaneous application(s), if any, shall also stand disposed of.

**MARCH 06, 2026**

**(AMARINDER SINGH GREWAL)**

**nitin**

**JUDGE**

Whether Speaking

Yes

Whether Reportable

No