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MA-231-2006

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE
HON'BLE SHRI JUSTICE AMIT SETH

MISC. APPEAL No. 231 of 2006

VISHVENDRA SINGH @ BOBBY

Versus

INDER SINGH AND OTHERS

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Appearance:

Shri Arun Sharma - Advocate for the appellant.

None for the respondent No.1 though served.

Shri Dilip Awasthi- GA appearing for respondents/State.

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WITH

MISC. APPEAL No. 232 of 2006

SMT. RAJABETI

Versus

INDER SINGH AND OTHERS

.....
Appearance:

Shri Arun Sharma - Advocate for appellant.

None for the respondent No.1 though served.

Shri Dilip Awasthi- GA appearing for respondents/State.

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JUDGMENT

Reserved on : 15.07.2026

Delivered on: 28.07.2026

These miscellaneous appeals have been preferred by the appellants/claimants being aggrieved by the common Award dated 16.12.2005 passed by the learned District Judge-cum-Motor Accident Claims Tribunal, Gwalior (hereinafter referred to as Claims Tribunal) in Claim Case



Nos. 7/2005 and 8/2005 whereby the claim petitions preferred by the claimants under Sections 166 and 140 of the Motor Vehicles Act, 1988 came to be dismissed.

2. Since both the appeals arise out of the same accident, involve common questions of fact and law, and challenge the same Award, they were heard analogously and are being decided by this common judgment.

3. Briefly stated, the case of the claimants before the Claims Tribunal was that on 15.08.2005 at about 9:15 p.m. claimant Vishvendra Singh, aged about eight years and studying in Class III, along with his sister Uma and maternal grandmother Rajabeti, was travelling on a Kinetic Zing Scooty from Moti Mahal towards Phool Bagh. When they reached near Moti Mahal Gate, Jeep No. MP 02 0122 allegedly being driven by respondent No.1 in a rash and negligent manner, dashed against the Scooty. As a result of the accident, both the claimants sustained grievous injuries. It was pleaded that Vishvendra Singh suffered a fracture in his leg, underwent surgery, and sustained permanent disability, whereas Rajabeti also sustained serious injuries and fractures resulting in permanent disability. It was further pleaded that an FIR was lodged at Police Station Padav against the driver of the offending Jeep and, after investigation, criminal proceedings were initiated against him. On these averments, the claimants sought compensation for the injuries, disability, and medical expenses suffered by them.

4. The respondents contested the claim petitions by denying the



occurrence of the accident involving the offending Jeep. Their defence was that the Jeep had not collided with the Scooty and that, since three adults and one child were travelling on the two-wheeler, the Scooty lost balance and fell on its own after its rider became frightened on seeing the headlights of the Jeep. Respondent No.1, the driver of the Jeep, also denied the allegations of rash and negligent driving.

5. Upon appreciation of the pleadings and evidence adduced by the parties, the learned Claims Tribunal held that the involvement of the offending Jeep was not proved, accepted the defence version that the Scooty had fallen on its own due to imbalance. The Claims Tribunal further observed that no direct collision took place between the vehicles and the Scooty lost balance and fell as the rider of the Scooty panicked upon seeing the approaching Jeep and, consequently, dismissed both the claim petitions.

6. Learned counsel appearing for the claimants submits that the learned Claims Tribunal has committed a grave error, both on facts and in law, in dismissing the claim petitions. It is contended that the Claims Tribunal failed to appreciate that the FIR had been promptly registered and, after due investigation, a charge-sheet had been filed against the driver of the offending Jeep, which constituted sufficient material to establish the involvement of the vehicle on the touchstone of preponderance of probabilities. Reliance has been placed upon the judgments of the Hon'ble Apex Court in *Bimla Devi v. Himachal Road Transport Corporation*, (2009) 13 SCC 530; *Mangla Ram v. Oriental Insurance Co. Ltd.*, (2018) 5 SCC



656; Meera Bai & Ors. v. ICICI Lombard General Insurance Co. Ltd., 2025 ACJ 1131; and the judgment of the *Delhi High Court in National Insurance Co. Ltd. v. Pushpa Rana, 2009 ACJ 287*. It is further submitted that the learned Claims Tribunal erred in holding that merely because three adults and one child were travelling on the Scooty, the accident must have occurred due to the negligence of its rider. It is argued that triple riding or carrying passengers in excess of the statutory limit may amount to a violation of Section 128 of the Motor Vehicles Act, but such violation, by itself, does not establish negligence unless it is shown that the same contributed to the occurrence of the accident. In support of the said contention, reliance has been placed upon the judgment of the Division Bench of this Court in *Devi Singh v. Vikram Singh and Others, 2008 ACJ 393*, and the judgment of the Hon'ble Apex Court in *Mohammed Siddiqui & Another v. National Insurance Co. Ltd., 2020 ACJ 751*. Learned counsel for the claimants further submits that, having dismissed the claim petitions solely on the issue of negligence, the learned Claims Tribunal failed to adjudicate the remaining issues relating to the nature of injuries sustained by the claimants, the treatment undergone by them, the medical expenditure incurred, the extent of permanent disability, and the compensation payable under various heads. It is, therefore, prayed that the impugned Award be set aside and the matter be decided in accordance with law.

7. Per contra, learned Government Advocate appearing for the respondents supported the impugned Award and submitted that the findings recorded by the learned Claims Tribunal are based upon proper appreciation



of the evidence on record. It is contended that neither the rider of the Scooty (Uma) nor the complainant (Jawahar) entered the witness box to substantiate the case of the claimants. It is further submitted that the evidence on record clearly establishes that no collision had taken place between the Jeep and the Scooty and that the accident occurred solely because the Scooty, carrying three adults and one child, lost balance and fell on its own. It is, therefore, submitted that no negligence can be attributed to the driver of the Jeep and the learned Claims Tribunal has rightly dismissed the claim petitions. Accordingly, dismissal of both the appeals has been prayed for.

8. Heard learned counsel for the parties and perused the record, including the written statements produced before the Claims Tribunal.

9. The record reveals that the alleged accident took place on 15.08.2005 at about 9:15 p.m. The First Information Report was lodged at Police Station Padav at about 11:20 p.m. on the very same night. Thus, the finding recorded by the learned Claims Tribunal that there was an inordinate delay in lodging the FIR is factually incorrect and is not borne out from the record. Pursuant to the registration of the FIR, the police conducted investigation and, finding sufficient material, filed a charge-sheet against respondent No.1, whereafter criminal proceedings were initiated against him.

10. The legal position governing proceedings under the Motor Vehicles Act is well settled. The Hon'ble Apex Court in *Bimla Devi, Mangla Ram*, and *Meera Bai* (supra) has consistently held that proceedings before the Claims Tribunal are summary in nature and the claimants are required to



establish their case on the touchstone of preponderance of probabilities and not beyond reasonable doubt. It has further been held that contemporaneous police documents, such as the First Information Report, site map, charge-sheet, and other records prepared during investigation, constitute relevant material for determining the question of negligence. A similar view has been taken by the Delhi High Court in *Pushpa Rana (supra)*.

11. Keeping the aforesaid legal principles in view, this Court has examined the evidence available on record. The learned Claims Tribunal has proceeded on the premise that the offending Jeep was falsely implicated and that no accident involving the said vehicle had taken place. However, while arriving at such conclusion, the Claims Tribunal has failed to properly appreciate the pleadings and the evidence adduced by the parties.

12. Respondent No.1, the driver of the offending Jeep, in his written statement merely denied the allegations of rash and negligent driving. He did not plead that the Scooty had struck against a wall or that the accident had occurred due to any independent cause. However, while entering the witness box, respondent No.1 introduced an altogether new version by deposing that on seeing the headlights of the Jeep, the rider of the Scooty lost control and the Scooty struck against a wall. Such evidence is clearly beyond the pleadings and ordinarily could not have been relied upon without there being any foundation in the written statement.

13. Equally significant is the fact that the evidence of the other defence



witness, namely, the officer travelling in the Jeep at the relevant time, is materially at variance with the testimony of respondent No.1. According to the said witness, the Jeep had already stopped and, on seeing the headlights of the Jeep, the rider of the Scooty became frightened, lost balance, and the occupants fell on the road. He did not depose that the Scooty had struck against any wall. Thus, there is a material inconsistency in the defence evidence itself with regard to the manner in which the accident allegedly occurred. These contradictions have not been considered by the learned Claims Tribunal while recording the finding that the defence version remained unrebutted.

14. In the opinion of this Court, the learned Claims Tribunal was required to examine the prompt lodging of the FIR, the filing of the charge-sheet after police investigation, and the contradictions appearing in the defence evidence in their proper perspective while appreciating the rival versions. Since these material aspects have not been duly considered, the finding recorded by the learned Claims Tribunal that the offending Jeep was falsely implicated and that its involvement in the accident was not proved cannot be sustained. Accordingly, the said finding deserves to be, and is hereby, set aside.

15. The learned Claims Tribunal has also observed that since three adults and one child were travelling on the Scooty, the accident must necessarily have occurred due to the negligence of its rider. Such an approach also cannot be sustained in law. Mere violation of Section 128 of



the Motor Vehicles Act or carrying passengers in excess of the prescribed limit does not, by itself, establish negligence or contributory negligence unless it is shown by acceptable evidence that such violation had a causal connection with the occurrence of the accident.

16. At the same time, this Court is not inclined to record any final finding either with regard to the rash and negligent driving of respondent No.1 or with regard to contributory negligence, if any, on the part of the rider of the Scooty. The material on record discloses that three adults and one minor child were travelling on the Scooty. Whether such overloading had any causal connection with the occurrence of the accident, whether the rider of the Scooty contributed to the accident, and if so, to what extent, are all questions of fact which require a comprehensive appreciation of the entire oral and documentary evidence available on record. Since the learned Claims Tribunal dismissed the claim petitions at the threshold by holding that the accident involving the offending Jeep itself was not proved, it did not independently examine these issues nor did it proceed to determine the quantum of compensation.

17. In these circumstances, this Court is of the considered opinion that the interests of justice would be subserved by setting aside the impugned Award and remanding the matter to the learned Claims Tribunal for fresh adjudication. Accordingly, the common Award dated 16.12.2005 passed by the learned District Judge-cum-Motor Accident Claims Tribunal, Gwalior in Claim Case Nos. 7/2005 and 8/2005 is hereby set aside.



18. The matters are remanded to the learned Claims Tribunal with a direction to decide both the claim petitions afresh in accordance with law after appreciating the entire oral and documentary evidence already available on record. While doing so, the learned Claims Tribunal shall independently consider the evidence relating to the involvement of the offending Jeep, the manner in which the accident occurred, the plea of rash and negligent driving against respondent No.1, and the plea of contributory negligence, if any, on the part of the rider of the Scooty, in the light of the principles laid down by the Hon'ble Apex Court. Thereafter, if the claimants are found entitled, the learned Claims Tribunal shall determine the just compensation in accordance with law.

19. It is clarified that this Court has not expressed any final opinion on the merits of the rival claims regarding negligence, contributory negligence, or entitlement to compensation. All such issues are expressly left open for independent adjudication by the learned Claims Tribunal on the basis of the evidence already available on record, uninfluenced by any observations contained in the impugned Award or in this judgment, except to the extent that the findings set aside herein shall not govern the fresh adjudication. Since the alleged accident pertains to the year 2005, the learned Claims Tribunal shall make every endeavour to dispose of the claim petitions expeditiously, preferably within a period of six months from the date of appearance of the parties. The appellants shall appear before the Claims Tribunal on 3rd August, 2026. Upon production of a certified copy of this judgment before the Claims Tribunal, notice shall be issued to the



respondents, and thereafter the claim petitions shall be decided afresh in accordance with law.

20. In view of the foregoing discussion and observations, both the miscellaneous appeals stand disposed of. No order as to costs.

21. A copy of this judgment be also placed with the record of M.A. No. 232/2006.

22. Records of MACT in both cases be returned to Tribunal forthwith.

(AMIT SETH)
JUDGE

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