(2025) 10 AH CK 0039

Allahabad HC

Case No: First Appeal From Order No. 2393 Of 2025

Shriram General Insurance Company Ltd		APPELLANT
	Vs	
Yashoda And 5 Others		RESPONDENT

Date of Decision: Oct. 14, 2025

Acts Referred:

- Motor Vehicles Act, 1988 — Section 171, 173
- Indian Penal Code, 1860 — Section 279, 304, 337, 338, 427

Hon'ble Judges: Sandeep Jain, J

Bench: Single Bench

Advocate: Vijay Prakash Mishra

Final Decision: Dismissed

Judgement

Sandeep Jain, J

1. The instant appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the Insurance Company of offending Truck/Dumfer No. UP-92-T-3442 against the impugned judgment and award dated 23.06.2025 passed by the Motor Accident Claims Tribunal (South), Kanpur Nagar in Motor Accident Claim Petition No.446 of 2015 (Smt. Yashoda and another vs. Shoaib Khan and others), whereby compensation of Rs.18,34,000/- along with interest @ 7% per annum has been awarded to the claimants for the untimely death of deceased Ram Khilawan Rajpoot in a motor accident that took place on 01.03.2015, which is to be indemnified by the insurer of the offending Truck/Dumfer.

2. Factual matrix is that on 01.03.2015, at about 6:00 a.m. the deceased Ram Khilawan Rajpoot, was travelling as pillion rider to his elder brotherâ€™s (Jagdish Singh) house situated in Ratanpur Colony, Panki on the motorcycle of Sunil Kumar having Registration No. U.P.-78-DQ-7491, which was driven cautiously and in a controlled speed then near Ratanpur village Truck/ Dumfer No. UP-92-T-3442, which was being driven in a rash and negligent manner came from the wrong side and hit the above motorcycle, due to which Ram Khilawan Rajpoot sustained serious injuries, who died on the spot. At the time of accident, the deceased was aged about 37 years and was employed in Kelly Services India Private Limited and was drawing salary of Rs.25,000/- per month. The Tribunal assessed his income @ Rs.9,800/- per month, granted future prospects of 50%, applied multiplier of 15, deducted one-third Rs. 58,800/-and awarded Rs.40,000/- towards loss of consortium. The Tribunal in this manner awarded a compensation of Rs.18,34,000/- along with 7% interest per annum to the claimants, which was ordered to be indemnified by the insurer of the offending vehicle.

3. Learned counsel for the appellant Insurance Company submitted that the alleged accident was doubtful because the F.I.R. was registered on 10.03.2015 at 17:30 hours at P.S. Panki, District Kanpur Nagar as Case Crime No.54 of 2015, which was lodged ten days after the accident. Learned counsel further submitted that according to the testimony of eye witness PW-3 Aditya Kumar Tiwari, the accident took place head-on but the Tribunal concluded that the offending vehicle hit the motorcycle of the deceased from behind. Learned counsel also submitted that as per the site plan prepared in the instant case, the accident was disclosed as head-on. Learned counsel further submitted that the Tribunal has erred by awarding future prospect @ 50% whereas as per the judgment of the Apex Court in National Insurance Co. Ltd. vs. Pranay Sethi & Others(2017) 16 SCC 680 future prospects of 40% has been awarded. It was further submitted that the Tribunal erred in awarding interest on the future prospects. It was prayed that the appeal be admitted and decided on merits.

4. I have heard learned counsel for the appellant Insurance Company and perused the impugned judgment and documents submitted by the appellant.

5. The Apex Court in the case of ICICI Lombard General Insurance Company Limited vs. Rajani Sahoo and Others (2025) 2 SCC 599, has held as under:-

"8. As regards the reliability of charge-sheet and other documents collected by the police during the investigation in motor accident cases, this Court in Mangla Ram v. Oriental Insurance Co. Ltd. [(2018) 5 SCC 656 : (2018) 3 SCC (Civ) 335 : (2018) 2 SCC (Cri) 819 : 2018 INSC 311] , held in para 27, thus : (SCC p. 672)

â€œ27. Another reason which weighed with the High Court to interfere in the first appeal filed by Respondents 2 and 3, was absence of finding by the Tribunal about the factum of negligence of the driver of the subject jeep. Factually, this view is untenable. Our understanding of the analysis done by the Tribunal

is to hold that Jeep No. RST 4701 was driven rashly and negligently by Respondent 2 when it collided with the motorcycle of the appellant leading to the accident. This can be discerned from the evidence of witnesses and the contents of the charge-sheet filed by the police, naming Respondent 2. This Court in a recent decision in Dulcina Fernandes [Dulcina Fernandes v. Joaquim Xavier Cruz, (2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13] , noted that the key of negligence on the part of the driver of the offending vehicle as set up by the claimants was required to be decided by the Tribunal on the touchstone of preponderance of probability and certainly not by standard of proof beyond reasonable doubt. Suffice it to observe that the exposition in the judgments already adverted to by us, filing of charge-sheet against Respondent 2 prima facie points towards his complicity in driving the vehicle negligently and rashly. Further, even when the accused were to be acquitted in the criminal case, this Court opined that the same may be of no effect on the assessment of the liability required in respect of motor accident cases by the tribunal.â€■

9. It is true that the Tribunal had looked into the oral and documentary evidence including the FIR, final report and such other documents prepared by the police in connection with the accident in question. The Tribunal had also taken note of the fact that based on the final report, the driver of the offending truck was tried and found guilty for rash and negligent driving. The High Court took note of such aspects and found no illegality in the procedure adopted by the Tribunal and consequently dismissed the appeal.

10. In the contextual situation it is relevant to refer to a decision of this Court in Mathew Alexander v. Mohd. Shafi [(2023) 13 SCC 510 : 2023 INSC 621] , this Court held thus : (SCC p. 514, para 12)

â€œ12. â€¦ A holistic view of the evidence has to be taken into consideration by the Tribunal and strict proof of an accident caused by a particular vehicle in a particular manner need not be established by the claimants. The claimants have to establish their case on the touchstone of preponderance of probabilities. The standard of proof beyond reasonable doubt cannot be applied while considering the petition seeking compensation on account of death or injury in a road traffic accident. To the same effect is the observation made by this Court in Dulcina Fernandes v. Joaquim Xavier Cruz [(2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13] which has referred to the aforesaid judgment in Bimla Devi [Bimla Devi v. Himachal RTC, (2009) 13 SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101] .â€■

11. Thus, there can be no dispute with respect to the position that the question regarding negligence which is essential for passing an award in a motor vehicle accident claim should be considered based on the evidence available before the Tribunal. If the police records are available before the Tribunal, taking note of the purpose of the Act it cannot be said that looking into such documents for the aforesaid purpose is impermissible or inadmissible.

12. It is also a fact that the appellant had attributed that the respondent claimants connived with police and fraudulently prepared the charge-sheet. The contention is that the vehicle insured with the appellant was not involved in the accident and the accident had occurred solely due to the rash and negligence on the part of the deceased. But the evidence on record would reveal that pursuant to the filing of the final report, cognizance was taken for rash and negligent driving which resulted in the death of Udayanath Sahoo."

(emphasis supplied)

6. The Apex Court in the case of Ranjeet and another vs. Abdul Kayam Neb and another 2025 SCC OnLine Sc 497, has held as under:-

"4. It is settled in law that once a charge sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eyewitnesses are not examined, that will not be fatal to prove the death of the deceased due to negligence of the bus driver."

(emphasis supplied)

7. The Apex Court in the case of Ravi vs. Badrinarayan & Others (2011) 4 SCC 693, while analyzing the delay in registering FIR in motor accident cases, held as under:-

"17. It is well settled that delay in lodging the FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the police station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the police station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim.

18. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so the contents of the FIR should also be scrutinised more carefully. If the court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences.

19. Lodging of FIR certainly proves the factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be a variety of reasons in genuine cases for delayed lodgement of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquillity of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons."

8. The Apex Court in the case of Jiju Kuruvila & Ors. vs. Kunjujamma Mohan & Ors. (2013) 9 SCC 166, held as under:-

â€œ20.5. The mere position of the vehicles after accident, as shown in a scene mahazar, cannot give a substantial proof as to the rash and negligent driving on the part of one or the other. When two vehicles coming from opposite directions collide, the position of the vehicles and its direction, etc. depends on a number of factors like the speed of vehicles, intensity of collision, reason for collision, place at which one vehicle hit the other, etc. From the scene of the accident, one may suggest or presume the manner in which the accident was caused, but in the absence of any direct or corroborative evidence, no conclusion can be drawn as to whether there was negligence on the part of the driver. In absence of such direct or corroborative evidence, the Court cannot give any specific finding about negligence on the part of any individual.

20.6. The post-mortem report, Ext. A-5 shows the condition of the deceased at the time of death. The said report reflects that the deceased had already taken meal as his stomach was half-full and contained rice, vegetables and meat pieces in a fluid with strong smell of spirit. The aforesaid evidence, Ext. A-5 clearly suggests that the deceased had taken liquor but on the basis of the same, no definite finding can be given that the deceased was driving the car rashly and negligently at the time of accident. The mere suspicion based on Ext. B-2 â€œscene mahazarâ€■ and Ext. A-5 post-mortem report cannot take the place of evidence, particularly, when the direct evidence like PW 3 (independent eyewitness), Ext. A-1 (FIR), Ext. A-4 (charge-sheet) and Ext. B-1 (FI statement) are on record.â€■

9. The Apex Court in the case of Prabhavati & Ors. vs. Managing Director, Bangalore Metropolitan, Transport Corporation 2025 SCC OnLine SC 455, held as under:-

â€œ10. We are unable to agree with the view taken by the High Court on the 25% contributory negligence of the deceased and 75% upon the driver of the bus. We find ourselves to agree with the view taken by the Tribunal on this issue. The Tribunal rightly, after considering the evidence on record and on perusal of the Ex. P3 Spot Mahazar, came to the conclusion that there wasn't any sufficient evidence on record, indicating that the accident occurred due to negligent driving on the part of the deceased, and after considering the oral evidence of P.W.1, held the cause of the accident to be rash and negligent on the part only of the offending vehicle.

11. Thus, in our considered view, the contributory negligence taken by the High Court at 25% of the deceased is erroneous. We advert to the principles laid down in Jiju Kuruvila v. Kunjujamma(supra) where it was held that in the absence of any direct or corroborative evidence on record, it cannot be assumed that the accident occurred due to the rash and negligent driving of both the vehicles. This exposition came to be followed in Kumari Kiran v. Sajjan Singh (2015) 1 SCC 539. In the present case, therefore, on an allegation simpliciter, it cannot be presumed that the accident occurred due to rash and negligent driving of both vehicles, for having driven at high speed.â€■

10. It is apparent that the accident took place on 01.03.2015 at about 6:00 a.m. but the F.I.R. was registered on 10.03.2015 at 17:30 hours at police station Panki, District Kanpur Nagar as Case Crime No.54 of 2015, under Sections 279, 337, 338, 304-A, 427 I.P.C. against the unknown driver of Truck/ Dumfer No. UP-92-T-3442. The F.I.R. discloses that the above Dumfer was driven in a rash and negligent manner, resulting in grievous injuries to first informantâ€™s brother Ram Khilawan Rajpoot, in which his head was crushed under the wheels of the Dumfer and he died instantaneously on the spot. The F.I.R. discloses that the accident was seen by Mahesh, Sumit Kumar and many other persons. It also discloses that after the accident, the driver of the Dumfer fled.

11. It is apparent that after investigation, a charge sheet has been submitted against the driver of the offending Truck/ Dumfer, Charan Singh.

12. It is evident that the first informant is not an eye witness of the alleged accident and it is also true that the site plan discloses that the accident was caused head-on when the Truck/Dumfer collided with the motorcycle on which deceased was travelling as pillion rider at the time of the accident but from the law laid down by the Apex Court in the case of Jiju Kuruvi la (supra) and Prabhavati(supra), it is evident that from the site plan, no conclusion can be drawn as to the negligence on the part of a particular driver and merely on the basis of the site plan, it cannot be inferred that a particular accident occurred in a particular manner. The Tribunal is not supposed to treat the site plan as an indicator or proof of the manner in which the accident occurred and in every case, the accident and the negligence of the driver is to be proved by the eye witnesses of the accident.

13. In the instant case, the claimants have examined PW-3 Aditya Kumar Tiwari as an eye witness of the accident, who proved the factum of accident and also proved that at the time of the accident, the offending Truck/Dumfer was being driven in a rash and negligent manner, which was towards the right of the motorcycle, which hit the motorcycle from itâ€™s left side, at the time of the accident the motorcycle was being driven in a normal speed, resulting in serious injuries to the pillion rider, who died on the spot.

14. It is apparent that the driver and owner of the offending Truck/Dumfer have not appeared in the witness box to contradict the claim. After investigation, charge sheet has been submitted against the driver of the offending vehicle. In view of this, merely on the basis of site plan, it cannot be presumed that the accident took place in the manner disclosed in the site plan.

15. It is also evident that delay in lodging the F.I.R. in motor accident cases is not fatal because ordinarily the dependents of the injured/ deceased are busy in the treatment of the injured or performing the last rites

of the deceased, as such, the F.I.R. is only registered after the injured somewhat recovers or the last rites of the deceased are performed. In view of this, the delay in lodging the F.I.R. cannot be termed as fatal.

16. The U.P. Motor Vehicle Rules, 220-A specifically mandate that where the age of the deceased was below 40 years, then 50% of the salary or minimum wages are to be added towards his future prospects. The Apex Court in the case of New India Assurance Company Limited vs. Urmila Shukla and others, (2021) 20 SCC 800, specifically considered this issue whether in the State of U.P. future prospects can be awarded in accordance with Rule 220-A of the U.P. Motor Vehicle Rules, 1998, which provides for greater future prospects in comparison with the law laid down by the Constitution Bench of the Apex Court in Pranay Sethi (supra) and the Apex Court concluded that where the statutory rules provide a definite criteria for awarding future prospects, then it has to be followed. In this case, the Tribunal in accordance with the above rules has awarded future prospects of 50%, since the deceased was only about 38 years old at the time of the accident.

17. It is also apparent that the Tribunal has awarded interest on the future prospects in this case. Learned counsel for the Insurance Company submitted that Tribunal has erred in awarding interest on the future prospects, relying on the case law of ICICI Lombard General Insurance Co. Ltd. vs. Seema Devi & Ors. 2024 SCC OnLine All 3064.

18. I have considered the above judgment and the submissions of learned counsel on this point.

19. It is apparent that Section 171 of the Motor Vehicle Act, reads as under :-

171. Award of interest where any claim is allowed.-Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

20. Rule 220-A (6) of the Uttar Pradesh Motor Vehicle Rules, 1998 reads as under :-

220-A. Determination of compensation.- ******

(6) The rate of interest shall be 7% pendente lite and future till the actual payment.

21. This issue was considered by the co-ordinate Benches of this Court in Shanti and others vs. Anil Awasthi and another, 2022 SCC Online All 2560 and U.P.S.R.T.C. vs. Bhawani Prasad Manjhi, Neutral Citation: 2020:AHC-LKO:82171, in which the above contention of the Insurance Company was repelled and it was held that the claimants are entitled to get interest on the future prospects as well. Further, the U.P.S.R.T.C. challenged the above judgment in Bhawani Prasad Manjhi's case by preferring S.L.P. (Civil) No.5183 of 2025 before the Apex Court which was dismissed vide order dated 03.03.2025. Further the Apex Court in the case of Oriental Insurance Company Limited vs. Niru and others, 2025 SCC Online SC 1431, repelled the submission of the Insurance Company that interest cannot be awarded on future prospects by specifically holding that it cannot be denied to the claimants.

22. In view of this, the matter is no more res integra. In all the recent judgments of the Apex Court, interest is being awarded on future prospects, as such, the contention of learned counsel for the appellant has no force and is rejected. The Tribunal has not erred in awarding interest on the future prospects.

23. No other point was pressed by learned counsel for the appellant.

24. In view of the aforesaid facts, there is no illegality in the impugned judgment of the Tribunal, as such, this appeal has no merits and is liable to be dismissed at the admission stage.

25. Accordingly, this appeal is dismissed at the admission stage.

26. Office is directed to remit back the statutory deposit of Rs.25,000/-made by the appellant at the time of filing of the appeal to the concerned Tribunal, forthwith.