



2026:AHC-LKO:20630

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

FIRST APPEAL FROM ORDER No. - 184 of 2025

Bharti Axa General Insurance Company Ltd.
Thru. Chief Manager Lko

.....Appellant(s)

Versus

Shashi Bala And And 7 Others

.....Respondent(s)

Counsel for Appellant(s) : Anchal Mishra
Counsel for Respondent(s) : Mukesh Singh, C.S.C.

Court No. - 20

HON'BLE PRASHANT KUMAR, J.

1. Heard Sri Anchal Mishra, learned counsel for the appellant, Sri Mukesh Singh, learned counsel for the respondents, Sri Hemant Kumar Pandey, learned Standing Counsel appearing for the State and perused the record.

2. The instant F.A.F.O. has been preferred under Section 173 of the Motor Vehicle Act, 1988 against the judgement, order and award dated 09.01.2025 passed by the Motor Accident Claims Tribunal, Faizabad(Ayodhya) in Claim Petition No. 408 of 2018 (Shashi Bala & others Vs. Bharti Axa General Insurance Co. Ltd & others) awarding compensation of an amount of Rs.81,38,838/- along with interest at the rate of 7% p.a.

3. The factual matrix of the case is that on 16.08.2018 at about 08.00 p.m. when one Manoj Kumar Singh was going to his house on Scooty bearing registration No. UP 42 AN-5715, when he reached on the road in front of City Hospital, a Bolero car bearing registration No.UP 42 S4525, which was coming in a high speed from behind and being driven in a rash and negligent manner, dashed into the scooty, with the result Manoj Kumar Singh was seriously injured. He was taken to the District Hospital, Barabanki and thereafter he was referred to the Trauma Center, Lucknow where he passed away on 27.08.2018 at about 10.00 p.m. during course of the treatment. An. F.I.R. was lodged to the said accident. The deceased/Manoj Kumar Singh was

aged about 46 years at the time of the accident. He was working as Head Master in Primary School Dashwantpur, Vikas Khand Suratganj, District Barabanki and was drawing monthly salary of Rs.60,904/-. The family members of the deceased filed a claim petition before the M.A.C.T., Faizabad seeking compensation. The Tribunal after perusing the pleadings on record framed the following issues.

"1. क्या दिनांक 16.08.2018 को समय लगभग 8.00 बजे रात्रि, आलापुर मोड़ के पास सिटी हास्पिटल, थाना कोतवाली नगर, जिला बाराबंकी जब मृतक अपनी स्कूटी संख्या यूपी 42एएन 5715 से आलापुर से वापस आ रहा था कि पीछे से आ रहे वाहन संख्या यूपी 42एस 4525 बोलेरो के चालक ने वाहन को तेजी व लापरवाहीपूर्वक चलाते हुए मनोज कुमार सिंह को टक्कर मार दिया जिससे मनोज कुमार सिंह घायल हो गये और काफी चोटें आयी और उनकी दौरान इलाज मृत्यु हो गयी?

2. क्या कथित दुर्घटना की तिथि व समय पर वाहन संख्या यूपी 42एस 4525 बोलेरो चालक के पास वाहन चलाने का वैध व प्रभावी चालन अनुज्ञप्ति थी?

3. क्या कथित दुर्घटना की तिथि व समय पर वाहन संख्या यूपी 42एस 4525 बोलेरो बीमा कम्पनी द्वारा बीमित था,

4. क्या कथित दुर्घटना की तिथि व समय पर वाहन संख्या यूपी 42एस 4525 बोलेरो बीमा शर्तों के उल्लंघन में चलाया जा रहा था?

5. क्या कथित दुर्घटना उपरोक्त दोनों वाहनों के योगदायी उपेक्षा के कारण घटित हुई?

6. क्या याचिनीगण कोई प्रतिकर की धनराशि प्राप्त करने की अधिकारिणी पाने की अधिकारिणी है, यदि हाँ तो कितना और किस विपक्षी से?"

4. The Tribunal after perusing the documents and the evidence led by the parties came to the conclusion that on 16.08.2018 at about 08.00 p.m. when the deceased was going on his Scooty bearing registration No. UP 41 AN-5715 he was hit by a Bolero car (bearing registration no.UP-42 S-4525), which was being driven in a rash and negligent manner from behind, with the result Manoj Kumar Singh was seriously injured and later he succumbed to his injuries on 27.08.2018 during the treatment.

5. The Tribunal further came to the finding that the offending vehicle-Bolero car was duly insured with the appellant-Insurance Company and its driver was having valid driving license. There was no violation of the terms & conditions of the insurance policy and the Tribunal vide its order dated 09.01.2025 has awarded a compensation of Rs. 81,38,838/- along with interest at the rate of 7% p.a. This order has been assailed by the appellant-Insurance Company by means of the instant appeal.

6. Sri Anchal Mishra, learned counsel for the appellant submits that a racket was going on, where the same vehicle was involved in multiple accidents and was done only to extract heavy claims from the Insurance Company. He further stated that the same vehicle and the same driver was earlier also involved in another accident which occurred on 29.01.2018 for which an F.I.R. was lodged on 22.02.2018. Thereafter the same vehicle was also involved in another accident which took place on 12.08.2021 and for that an F.I.R. was also lodged on 11.09.2021.

7. On the suspicion created by learned counsel for the appellant, the Court had directed the Principal Secretary (Home) to investigate as to whether the accidents so occurred were the genuine accidents or the same have been fabricated to extract money from the Insurance Company. Pursuant thereto, on behalf of the Principal Secretary (Home), the Superintendent of Police, Barabanki has filed an affidavit on 11.08.2025, which is on record, wherein it has been stated that after a thorough investigation, they found that though the said vehicle was involved in three accidents on the different dates i.e. one on 29.01.2018, 16.08.2018 (which relates to the present matter) and third accident which took place on 12.08.2021, but the driver in two accidents was one and the same, and in the third accident there was a different driver. He further submits that these accidents did happen, and after investigation the charge sheet was submitted in all the cases to the Court concerned. It is further stated that there is nothing suspicion about the matter, and it is a matter of chance that the same vehicle was involved in all the three accidents.

8. Learned counsel for the appellant for the first time had raised this argument before this Court that the same vehicle was involved in the

different accidents and it was a modus operandi to extract heavy claims from the Insurance Company.

9. Learned counsel for the appellants further submits that he was not aware about these proceedings and only when he came to know about the earlier two accidents with the same vehicle and driver, he filed an application under Order 41 Rule 27 C.P.C. for adducing additional evidence.

10. Learned counsel for the appellant has stated that there is something fishy as the same vehicle is involved in multiple accidents wherein the F.I.Rs. in all cases have been filed with a delay, and the entire scheme has been chalked out to extract money from the Insurance Company.

11. *Per contra*, Sri Hemant Kumar Pandey, learned Standing Counsel submits that as per the direction of this Court, a detailed inquiry was conducted by the Principal Secretary (Home) and it was found that though the accidents did happen but there is nothing fishy or suspicious about the same.

12. He further submits that additional facts which the appellant is trying to raise in the instant appeal cannot be raised in view of the ratio laid down by the Hon'ble Supreme Court in the matter of **Deepak Tandon Vs. Rajesh Kumar Gupta**, reported in **AIR 2019 SC 924**, wherein the Hon'ble Supreme Court held that

"21. Fourth, it is a settled law that if the plea is not taken in the pleadings by the parties and no issue on such plea was, therefore, framed and no finding was recorded either way by the Trial Court or the First Appellate Court, such plea cannot be allowed to be raised by the party for the first time in third Court whether in appeal, revision or writ, as the case may be, for want of any factual foundation and finding."

13. Ms. Shraddha Srivastava, learned counsel for the claimants/respondent nos. 1 to 5, submits that the offending vehicle was driven very rashly and negligently and had hit the scooty of the deceased-Manoj Kumar Singh from the behind who died because of

the injuries. The claim petition was filed by the claimants-respondents wherein the Tribunal has passed the award. Since the award is of high value the appellant herein is trying to create suspicion so that the awarded amount may not be paid to the respondents-claimants. She further submits that the issue has been rightly decided by the Tribunal looking into the age, income and other facts etc. which is based on the independent eye witnesses.

14. Heard learned counsel for the parties and perused the records.

15. The factum of the accident, which happened on 16.08.2018 at about 08.00 p.m. was not disputed, where the deceased- Manoj Kumar Singh while going to his house on his Scooty was hit from behind by a Bolero car bearing no. UP 42 S4525, which was being driven in a very rash and negligent manner. The Tribunal has found that the offending vehicle was duly insured with the appellant and its driver was having valid driving license and that the offending vehicle had followed all the terms and conditions of the insurance policy. Accordingly, looking into the income, age and other factors of the matter, the Tribunal has rightly awarded the compensation of Rs. 81,38,838/- in favour of the claimants along with interest at the rate of 7% p.a.

16. The instant appeal has been filed by the appellant-Insurance Company wherein, they had tried to create a suspicion, as if this vehicle has been used/planted in multiple accidents only to extract money from the Insurance Company. As such, the Court had directed for high level inquiry by no one else than the Principal Secretary (Home) only to ensure that the allegation so made should be examined and inquire into to detect or prevent any collusive or fraudulent accidental claims.

17. After investigation, the Superintendent of Police, Barabanki has submitted a report dated 03.08.2025, the relevant part of the report is quoted below:-

"(1)-वादिनी श्रीमती शशिबाला सिंह पत्नी स्व० मनोज कुमार निवासी-4/470 आवास विकास कालोनी निकट पुरानी पुलिस चौकी कोतवाली नगर बाराबंकी स्थायी पता मोहम्मदपुरखाला जिला बाराबंकी की तहरीर के आधार पर मु०अ०सं० 761/2018 धारा- 279, 304ए भादवि बनाम यूपी 42 एस 4525 के चालक नाम पता अज्ञात के विरुद्ध थाना

कोतवाली नगर जनपद बाराबंकी पर दिनांक 02.09.2018 को पंजीकृत हुआ, जिसकी विवेचना तत्कालीन उपनिरीक्षक श्री वेद प्रकाश यादव द्वारा सम्पादित की गयी, बाद विवेचना बयानात वादिनी, बयानात गवाहान पंचान, निरीक्षण घटना स्थल, अवलोकन पीएम रिपोर्ट, अवलोकन तकनीकी परीक्षण रिपोर्ट आदि से फूलचन्द्र यादव पुत्र छेदीलाल यादव निवासी बिरौली पूरेजीत सिंह का पुरवा थाना-पूरा कलन्दर जनपद-फैजाबाद का नाम प्रकाश में आने पर जुर्म धारा-279, 304ए भादवि का अपराध पाये जाने पर आरोप पत्र संख्या-658/2018 दिनांक 26.10.2018 को कित्ता कर दिनांक 27.02.2019 को मा० न्यायालय दाखिल किया जा चुका है, जो विचाराधीन भ्यायालय है, सुनवाई की अग्रिम तिथि 20.09.2025 नियत है।

(2)-वादी श्री संस्कार तिवारी पुत्र स्व० सौरभ तिवारी निवासी अभय नगर निकट बड़ी लाइन क्रासिंग देवा रोड कोतवाली जनपद बाराबंकी द्वारा दी गयी तहरीर के आधार पर मु०अ०सं० 392/2021 पारा-279, 304ए, 427 भादवि बनाम कार नं० यूपी 42 एस 4525 कार चालक नाम पता अज्ञात के विरुद्ध थाना-मोहम्मदपुरखाला जनपद-बाराबंकी पर दिनांक 11.09.2021 को पंजीकृत हुआ जिसकी विवेचना उपनिरीक्षक श्री धर्मेन्द्र नाथ मिश्रा द्वारा संपादित की गयी, इनके स्थानान्तरण के उपरान्त विवेचना उपनिरीक्षक श्री पशुपति नाथ को सुपुर्द हुई। विवेचना से मुकदमा उपरोक्त में अभियुक्त सूरज कुमार पुत्र केश कुमार निवासी वरवा थाना-पूरा कलन्दर जनपद अयोध्या का नाम प्रकाश में आया। तमामी विवेचना से बयान वादी, बयान गवाहान, निरीक्षण घटना स्थल, अवलोकन पीएम रिपोर्ट, तकनीकी परीक्षण रिपोर्ट व अन्य संकलित साक्ष्यों से अभियुक्त सूरज कुमार पुत्र केश कुमार उपरोक्त के विरुद्ध जुर्म धारा-279, 304ए, 427 भादवि का अपराध बाखूबी साबित पाये जाने पर अभियुक्त सूरज कुमार उपरोक्त का चालान जुर्म धारा-279, 304ए, 427 भादवि में जरिये आरोप पत्र संख्या-433/2021 दिनांक 09.11.2021 को प्रेषित किया गया, जो मा० न्यायालय में विचाराधीन है।"

18. A perusal of the report clearly shows that there was nothing suspicion about the said accident; though the same vehicle was involved in three accidents but at best it can be said that it was a matter of chance that in one year two accidents had occurred with the same vehicle and the same driver and in the second year the same vehicle was involved in the third accident with another driver.

19. Apart from this learned counsel for the appellant has not raised any other argument in this appeal.

20. Hence, this Court has come to a conclusion that the appellant-Insurance Company herein just to avoid the payment of compensation has created a mace and concocted as story as if one and the same vehicle was regularly involved in accidents and because of the appellant's arguments creating suspicion an inquiry was got conducted by the Principal Secretary (Home) and in the inquiry it was found that the allegations made by the appellant in the

appeal were not correct. It is only to avoid payment of compensation such kind of argument was raised and the Court has to unnecessarily asked for a detailed investigation.

21. In view of the aforesaid facts and circumstances of the case, the order passed by the Tribunal is perfectly justified and there is no irrationality and illegality in the same.

22. The instant appeal *sans* merits and the same is accordingly dismissed.

23. In view thereof, it is apparent that the instant appeal has been filed with the sole intention to avoid the payment of compensation as the compensation is of higher amount. Hence, a cost of Rs. 1.00 lakh is imposed upon the appellant. Out of Rs.1.00 lakh, Rs.50,000/- shall be paid to the claimants-respondents herein and another Rs.50,000/- and Rs.50,000/- shall be paid to the widows of C.R.P.F. personnel, who had lost their lives fighting with Naxalites. Accordingly, the cost of Rs.50,000/- shall be paid to the "C.R.P.F. Family Welfare Association", Block-I, CGO Complex, Lodhi Road, New Delhi within a period of four weeks.

March 18, 2026
Arjun/-

(Prashant Kumar,J.)