IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE RATNESH CHANDRA SINGH BISEN

ON THE 1st OF SEPTEMBER, 2026

MISC. APPEAL No. 2884 of 2019

ANIL KUMAR PATEL

Versus

SMT. MUNNI BAI BARMAN AND OTHERS

Appearance:

Shri Arvind Chawla - Advocate for the appellant.

Shri Prabal Singh Rajput - Advocate for the respondent No.1.

Shri Aditya Narayan Sharma - Advocate for the respondent No.4.

Reserved on : 31.07.2026.

Pronounced on: 01.09.2026.

ORDER

This appeal has been filed by appellant under Section 173(1) of the Motor Vehicle Act, 1988 challenging the award dated 20.02.2019 passed by VIth A.M.A.C.T. Jabalpur (M.P.) in M.V.C. No.2842/16.

2. Learned counsel for the appellant submits that in the present case, the Tribunal has passed the order against the appellant (owner and driver) and exonerated the Insurance Company on the ground that as per the FIR, at the time of the accident, the deceased was sitting on the tractor. However, during the course of evidence, it became clear that at the time of the accident, the deceased was not sitting on the tractor; rather, he was on the road, dancing in front of the tractor. Learned counsel for the appellant relied upon the law laid

down in the case of **Halappa v. Malik Sab** reported in **(2018) 12 SCC 15** and submitted that the evidence adduced before the Trial Court is required to be considered and not the FIR. It is further submitted that the Tribunal could not have relied upon the FIR. It is also argued that the facts of the said case are similar to the facts of the present case. He submitted that the claimant has pleaded in the claim petition that, at the time of the accident, the deceased was dancing in front of the tractor and, due to the rash and negligent driving of the tractor driver, the accident occurred. He further submitted that during the investigation, the witnesses gave statements under Section 161 of the Cr.P.C. stating that, at the time of the accident, the deceased was dancing in front of the tractor and, due to the rash and negligent driving of the tractor driver, the accident occurred.

3 . *Per contra*, learned counsel for respondent No. 4 submitted that the counsel for the appellant argued before this Court that there was no evidence produced before the Tribunal in this regard. He also submitted that the owner and driver had not adduced any evidence on their behalf to prove their case. He further argued that, on the basis of the evidence produced by the claimant, the Tribunal had considered the witness. Therefore, the appellant cannot take advantage of the aforesaid law. He also submitted that the Tribunal discussed the matter in detail in paragraphs 18 to 21 of the award and duly appreciated the evidence. The Tribunal did not find the witness to be reliable. In the present case, the FIR was lodged by the uncle of the deceased. However, the uncle of the deceased was not examined on behalf of the claimant. He further submitted that the eye-witness, Ram Verman (PW-

2), stated before the Tribunal that, at the time of the accident, when the FIR was lodged, Bedilal, the brother of the claimant, was present and had witnessed the incident. Learned counsel has placed relied upon the judgment of the Apex Court in the case of **Oriental Insurance Company Limited v. Premlata Shukla and Others**, reported in **(2007) 13 SCC 476.** Paragraphs 13 and 14 of the said judgment are relevant which reads as under :

> "13. However, the factum of an accident could also be proved from the First Information Report. It is also to be noted that once a part of the contents of the document is admitted in evidence, the party bringing the same on record cannot be permitted to turn round and contend that the other contents contained in the rest part thereof had not been proved. Both the parties have relied thereupon. It was marked as an Exhibit as both the parties intended to rely upon them.
> 14. Once a part of it is relied upon by both the parties, the learned Tribunal cannot be said to have committed any illegality in relying upon the other part, irrespective of the contents of the document been proved or not. If the contents have been proved, the question of reliance thereupon only upon a part thereof and not upon the rest, on the technical ground that the same had not been proved in accordance with law, would not arise."

4. Learned counsel for respondent No. 4 also submitted that, after completion of the investigation, the charge-sheet was filed by the Investigating Officer against the driver before the criminal Court. However, neither the owner nor the driver filed any complaint before the Superintendent of Police or any other senior police officer against the Investigating Officer. Therefore, the appellant cannot take the plea that the contents of the FIR were wrongly mentioned. He further submitted that the Tribunal had properly considered that, at the time of the accident, the deceased was sitting on the trolley attached to the tractor, and due to the slipping of the trolley, the deceased died. Therefore, the deceased was a gratuitous passenger, and consequently, the Insurance Company is not liable

to pay compensation, as the policy was issued only for agricultural purposes and not for carrying passengers.

5. Heard learned counsel for the parties and perused the record.

6. Munnalal Verma (Applicant Witness No. 1), who is the father of the deceased Ramcharan, admitted in paragraph 8 of his cross-examination that the report regarding the incident was lodged by his elder brother Bedilal, who was present at the place of occurrence at the time of the incident. Apart from this fact, there is nothing in the cross-examination of this witness from which it can be concluded that the deceased was sitting on the tractor at the time of the incident and that Ramcharan died after falling from the tractor and coming under its wheel. It is also pertinent to mention that, on behalf of Non-Applicant No. 3, no suggestion was put to this witness that the deceased Ramcharan was sitting on the tractor at the time of the accident. The only suggestion put was that his son died because he fell from the tractor being driven by Pramod; however, this suggestion was denied. Thus, upon consideration of the entire testimony of this witness, it is apparent that this witness was not present at the spot.

7. Ram Verma alias Ashu (Applicant Witness No. 2), who is an eyewitness to the incident, stated in his affidavit in examination-in-chief that on 11.10.2016, he had gone to Saraswati Ghat for the immersion of the Durga idol. He and Ramcharan Verma were dancing ahead of the tractor, which was being driven by Pramod Yadav. Pramod Kumar Yadav drove the tractor negligently and hit both of them, as a result of which he and Ramcharan Verma fell down, and the front wheel of the tractor ran over Ramcharan Verma, causing his death at the spot itself. In paragraph 5 of his cross-

examination, this witness stated that the deceased's uncle, Bedilal Verma, had gone to the police station and lodged the report regarding the incident. He admitted that the deceased's uncle, Bedilal Verma, was present at the time of the incident. In paragraph 7, this witness denied the suggestion that the tractor driver had driven the tractor negligently, causing Ramcharan to fall and thereby resulting in his death. He also stated that Bedilal was not present at the time of the incident and had arrived later.

8. Thus, in the cross-examination of both these witnesses, no specific suggestion was put to them that the deceased was sitting on the tractor at the time of the incident and came underneath the tractor after falling from it. The only suggestion put was that the tractor driver drove the tractor negligently, causing Ramcharan to fall, resulting in his death. Therefore, as far as the question of whether the deceased was sitting on the tractor at the time of the incident is concerned, no specific suggestion was put regarding the fact stated in the First Information Report (FIR) that the deceased was travelling while sitting on the tractor at the time of the incident. On the other hand, Ram Verma alias Ashu, the eyewitness examined on behalf of the applicants, has clearly stated that he and the deceased Ramcharan were dancing at the time of the incident, when the tractor driver, Pramod Yadav, drove the tractor negligently and hit both of them, causing injuries to both. There is nothing in the cross-examination of this witness from which it can be concluded that, at the time of the incident, this witness and the deceased were sitting on the tractor and that the deceased Ramcharan sustained injuries after falling from the tractor.

9. As regards the testimony of Akash Sharma (Non-Applicant Witness No.

1), examined on behalf of Non-Applicant No. 3, it appears that this witness deposed on the basis of the FIR that the deceased had fallen from the tractor and died. In other words, the testimony of this witness has no evidentiary value because he was neither present at the spot nor was the FIR lodged by him.

10. The principal question requiring consideration now is whether, merely because the FIR contains a statement that the deceased was sitting on the tractor at the time of the accident and fell from it because the tractor driver drove negligently, resulting in his death, that version should be accepted; or whether the deceased was dancing at the time of the accident and, during that time, the tractor driver drove the tractor negligently and ran the tractor over the deceased, resulting in his death.

11. The evidence produced by the applicants before the Tribunal clearly establishes that the idol was being taken for Durga immersion and that the deceased was dancing on the road at that time. The tractor driver drove the tractor negligently and ran it over the deceased, resulting in the death of Ramcharan. In this regard, the principle laid down by the Hon'ble Supreme Court in Halappa (**supra**) is relevant for consideration. The Hon'ble Supreme Court laid down the principle that the Tribunal, on the basis of the evidence of witnesses examined before it, rejected the defence of the insurance company that the deceased was sitting on the mudguard of the tractor at the time of the accident and, therefore, the insurance company was not liable to pay compensation. The evidence of the witnesses examined before the Court is important. Merely on the basis of facts mentioned in the FIR, without duly proving the FIR, the defence of the insurance company cannot be accepted.

In this regard, paragraphs 6 to 8 of the judgment of the Hon'ble Supreme Court are important, which are as follows:-

> "6. Learned Counsel appearing on behalf of the appellant submits that the High Court has manifestly erred in reversing the considered judgment of the Tribunal. The appellant urged that the finding of fact recorded by the Tribunal on the basis of substantive evidence could not have been reversed purely on the basis of the FIR. Moreover, it was urged that the insurer had not produced any ocular evidence to displace what was stated by the appellant in the course of his deposition and which was supported by PW3 who had witnesses the accident.
>
> 7. On the other hand, the learned counsel appearing on behalf of the insurer has supported the judgment of the High Court and urged that the finding that the appellant was injured while riding on the mud-guard of the tractor is correct. Consequently it was urged that the insurance policy which was issued to the owner did not cover the risk arising from a third party riding on the tractor and there was hence a breach of the insurance policy.
>
> 8. The judgment of the Tribunal indicates that the defence of the insurer based on the first information report, the complaint Exh.P1 and the supplementary statement of the appellant at Exh.P2 was duly evaluated. The Tribunal, however, observed thus:
>
>> "…the respondent no.3 and RW.1 submitted that the petitioner has invited the alleged unfortunate accident but except the FIR and complaint Ex.P.1 the respondent no.3 has not produced any documents to show that at the time of accident the petitioner was travelling as a passenger by sitting on the engine of the tractor in question. During the course of cross-examination RW.1 has admitted that the respondent no.3 has maintained a separate file in respect of accident in question and he has also admitted that the respondent no.3 has not produced the investigator's report of this case. Admittedly the respondent no.3 has not examined any independent eye witness to the accident to prove that on the relevant date and time of the accident the petitioner was travelling as a passenger by sitting on the engine of the tractor. If really the petitioner has sustained grievous injuries by falling down from the engine of said tractor the respondent no.3 insurer could have produced the separate file maintained by it in respect of the accident in question and it could have also produced investigator's report in respect of the said accident but admittedly the respondent no.3 has not produced the

> said separate file and investigator's report in respect of the accident in question for the reasons best known to it. On the other hand as already stated above it is clear from the statement of petitioner on oath and eye witness and from the supplementary statement of petitioner at Ex.P.2 and police statement of witnesses at Ex.P.3 and Charge Sheet at Ex.P.6 it is clear that due to rash and negligent driving of said tractor by respondent no.1 the said tractor turtle down and fell over the petitioner who was about to board the tractor and as a result of which the petitioner has sustained grievous injuries. Moreover as already stated above the Investigating Officer concern after detail investigation has filed the Charge Sheet against the respondent no.1 for the offences punishable u/s.279 and 338 IPC…"

The High Court has proceeded to reverse the finding of the Tribunal purely on the basis that the FIR which was lodged on the complaint of the appellant contained a version which was at variance with the evidence which emerged before the Tribunal. The Tribunal had noted the admission of RW1 in the course of his cross-examination that the insurer had maintained a separate file in respect of the accident. The insurer did not produce either the file or the report of the investigator in the case. Moreover, no independent witness was produced by the insurer to displace the version of the incident as deposed to by the appellant and by PW 3. The cogent analysis of the evidence by the Tribunal has been displaced by the High Court without considering material aspects of the evidence on the record. The High Court was not justified in holding that the Tribunal had arrived at a finding of fact without applying its mind to the documents produced by the claimant or that it had casually entered a finding of fact. On the contrary, we find that the reversal of the finding by the High Court was without considering the material aspects of the evidence which justifiably weighed with the Tribunal.

We are, therefore, of the view that the finding of the High Court is manifestly erroneous and that the finding of fact by the Tribunal was correct."

12. Thus, in light of the above legal principle, when the present case is considered, it is apparent that the best witness to the

occurrence, namely the eyewitness Ram Verma alias Ashu (Applicant Witness No. 2), was examined on behalf of the applicants and he fully supported the case of the applicants. There is nothing in the cross-examination of this witness on the basis of which his testimony could be disbelieved. From the testimony of this witness and the documents produced by the applicants, it is clear that this witness also sustained injuries in the accident. Therefore, his presence at the place of occurrence at the time of the incident stands established. Furthermore, the insurance company, in order to establish its defence that the deceased Ramcharan was sitting on the tractor at the time of the incident and died after falling from the tractor, did not examine any eyewitness. Whereas, in order to prove its defence, the insurance company ought to have examined an eyewitness. Merely because the FIR contains a statement to this effect, it cannot automatically be held proved that the deceased Ramcharan was sitting on the tractor at the time of the incident.

13. It is also pertinent to mention that if the insurance company seeks to absolve itself from liability to pay compensation on the basis of the facts mentioned in the FIR, then the insurance company would be required to have the author of the FIR examined before the Court, because merely by exhibiting the FIR, it cannot be held that the entire contents of the FIR have been proved. It would also be appropriate to mention here that a First Information Report (FIR) is not substantive piece of evidence;

rather, it is admissible as corroborative evidence and may be used for the purpose of contradiction under Section 145 of the Indian Evidence Act.

14. In the present case, the insurance company could have examined Bedilal, the person who lodged the First Information Report, and thereby established the fact that, at the time of lodging the FIR, he had stated that the deceased was sitting on the tractor at the time of the accident and that, after falling from the tractor, he came under its wheel, as a result of which the deceased died. Similarly, by examining the author of the First Information Report, it could have been established that, at the time of lodging the FIR, the deceased's uncle, Bedilal, had got it recorded that the deceased was sitting on the tractor at the time of the accident and that, after falling from the tractor, he came under the wheel of the tractor and died.

15. In this regard, paragraph 19 of **Branch Manager, Oriental Insurance Company Limited and another Vs. M.K. Subba and Others** reported in **2010 SCC Online Sikk 36**, is relevant and may be referred to, which reads as follows:

> "19. On thoughtful consideration of the rival contentions of the parties, the pleadings and the evidence on record, I am of the view that the sole ground raised by the appellants to assail the award of the Claims Tribunal cannot be sustained for the reasons stated as under:
>
> > The only evidence which the appellants rely upon for the purpose of showing that there was a breach of a condition of the policy on the part of the insured of the vehicle having

been given on hire to the deceased and her group, is the first information report lodged by Shrijana Pradhan, PW 2, who was also travelling in the same vehicle. No doubt, the statement recorded by the police of Manesar Police Station, Gurgaon, states that the vehicle was taken on hire, but this is in clear conflict with the statements made on oath before the Tribunal by the claimant No. 1 appearing as PW 1 and the maker of the F.LR., the PW 2. It is a settled principle of law that an F.I.R. is not a substantive piece of evidence but only corroborative that can also be used for contradiction under section 145 of the Evidence Act. The appellants have not led any evidence at all, let alone produce evidence to prove that the vehicle was taken on hire by the deceased and her family. Therefore, the question of the F.LR. corroborating the evidence of the insurers did not arise at all when they did not have any other evidence. The appellant insurer also failed to confront the witness with the statement contained in the F.I.R. for the purpose of contradiction, an opportunity which was available to them under section 145 of the Evidence Act. The appellants could have easily produced the person who wrote down the F.I.R. as a witness to prove that the PW 2 had indeed made the statement before the police which had been denied by her in her deposition before the Tribunal. This having not been done, it is difficult for this court to accept the contention of the insurer appellant that the vehicle was given on hire. The sworn testimony of the witness made before the Tribunal, therefore, has to be given the necessary weightage over the one that is unsworn, and in this case unsigned statement, recorded by the police which in any case has only a corroborative value."

16. In the present case, it is also relevant to consider that after the report of the incident was lodged, the Investigating Officer conducted the investigation, and during the course of investigation, the statements of the eyewitnesses to the incident were recorded. These witnesses stated that, at the time of the incident, the deceased was dancing on the road. From a perusal of the final report submitted by the Investigating Officer, marked Exhibit P-1, it appears that at the time of the incident, the deceased Ramcharan and injured Ram Verma were dancing on the road in front of the tractor, when the tractor driver Pramod Yadav drove the tractor negligently and caused the accident. This fact also supports the case of the applicants/claimants. However, the Tribunal, merely on the basis of the FIR, marked Exhibit P-2, without it having been duly proved, concluded that the deceased was sitting in the tractor at the time of the accident and had fallen from it, resulting in the accident. Such a conclusion by the Tribunal is legally incorrect. The Tribunal's rejection of the testimony given by the eyewitness Ram Verma alias Ashu (Applicant Witness No. 2) is also not legally sustainable.

17. As regards the judicial precedent relied upon by the insurance company, namely Oriental Insurance Company Limited v. Premlata Shukla and Others, upon examination of the same, it is apparent that the insurance company does not derive any benefit from the principle laid down therein because the facts and circumstances of that case are different from those of the present

case. In that case, the deceased, Shiv Nandan Prasad Shukla, was travelling from Bhopal to Allahabad in a Tempo Trax when the Tempo Trax collided with a truck. However, the registration number of the truck could not be ascertained. An FIR was registered against the truck, but during the investigation the truck could not be traced, and consequently the case was closed. The claim petition was filed against the owner of the Tempo Trax and the insurance company. On the basis of the material available on record and the FIR, the Tribunal found that the driver of the Tempo Trax was not driving the Tempo Trax negligently or rashly at the time of the accident. For this reason, the claim petition was dismissed.

18. The situation in the present case is different because, regarding the accident, an FIR was registered against the tractor driver Pramod Yadav for causing the accident by driving the tractor rashly and negligently. After investigation, the Investigating Officer found, prima facie, that an offence under Section 304-A of the Indian Penal Code was made out against tractor driver Pramod Yadav, and a charge-sheet was submitted before the Court of the Judicial Magistrate. From a perusal of the final report, marked Exhibit P-1, it is also apparent that the deceased Ramcharan and others were dancing on the road at the time of the accident.

19. In addition to the above, it is also pertinent to mention that the judgment in Halappa v. Malik Sab (**supra**) was delivered by a

Bench of three Hon'ble Judges of the Supreme Court, whereas the case of Premlata Shukla was decided by a Bench of two Hon'ble Judges of the Supreme Court. Therefore, in such circumstances, the principle laid down in Halappa (**supra**) would prevail and would be applicable.

20. In view of the aforesaid discussion, this Court is of the opinion that the Tribunal erred in holding that the deceased was travelling on the tractor and died after falling from it, merely on the basis of the FIR. The evidence of the eyewitness Ram Verma alias Ashu, supported by the investigation and charge-sheet, clearly establishes that the deceased was dancing on the road in front of the tractor when the tractor was driven rashly and negligently by the driver and ran over him. Therefore, the finding of the Tribunal exonerating the Insurance Company from its liability cannot be sustained. Accordingly, the award dated 20.02.2019 passed by the VIth A.M.A.C.T., Jabalpur in M.V.C. No.2842/2016 is hereby set aside to the extent it exonerates the Insurance Company.

21. The appeal is **partly allowed** and the Insurance Company shall be liable to satisfy the award passed by the Tribunal in accordance with law. Rest of the award shall remain intact.

(RATNESH CHANDRA SINGH BISEN)
JUDGE

Rao