



REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NOS. OF 2026
(Arising out of SLP(C) Nos.9002-03 of 2026)

DILIP AGARWAL

... APPELLANT(S)

Versus

RAJSHRI AGARWAL & ORS.

...RESPONDENT(S)

J U D G M E N T

SANJAY KAROL, J.

1. Leave Granted.
2. One Anand, sat in the vehicle driven by his friend, the appellant Dilip, on 29th November 2009 and three days later, on 03.12.2009 he was found dead near Binjkot village, PS Chalradhar Nagar. Rajshri - Anand's wife lodged FIR No.963 of 2009 at PS Kotwali, District Raigarh, thus setting in motion the

machinery in criminal law. The chargesheet alleged that a total of three accused persons in furtherance of a conspiracy, kidnapped Anand, killed him in a premeditated fashion and disposed of his mortal remains. Somewhat parallelly, Rajshri and her three children filed a claim petition *vide* claim Case No.37 of 2011 under Section 166 of the Motor Vehicles Act, before the Fourth Additional Motor Accident Claims Tribunal¹, Raigarh, seeking compensation of approximately Rs. 26,00,000/-, alleging that Anand, was killed inside Dilip's vehicle and hence the vehicle was used in the commission of the offence.

3. In the criminal case being Sessions Trial No. 38 of 2010, *vide* judgment dated 30th November 2012, Dilip was convicted under Sections 365, 302, 201 and 120B of the Indian Penal Code, 1860². His appeal to the High Court succeeded and in terms of judgment dated 18th November 2015, he was acquitted of all charges primarily on account of the fact that the last seen theory, on which the case of the prosecution rested, could not be proved.

4. The Tribunal, while holding that rashness and negligence could not be proved, held the death of Anand, to be covered under Sections 165 and 166 of the Motor Vehicles Act, 1988,³ observing that the dominant intention at play was not the murder

¹ MACT

² IPC

³ MVA

of Anand, but the injuries suffered by him were inflicted while they were in the vehicle, eventually leading to his death. Another reason for the Tribunal's conclusion was that Dilip, failed to deny the case of the claimants and as such accepted their version of events. A total amount of Rs.5,64,000/- with 7% interest was awarded. The High Court agreed with the findings of the Tribunal and enhanced total compensation to Rs.8,60,832/- with 6% interest on the enhanced amount.

5. The short question before us is whether the death of Anand 'arises out of' the use of the motor vehicle thereby making Dilip and/or his insurer liable to compensate the respondents?

6. In a recent decision, this Court in ***Bruhat Bangalore Mahanagara Palike v. K.K. Umesh Kumar***⁴, while considering a case of a passenger in an autorickshaw that was parked on the side of the road, being injured by a branch of a tree falling on top of the said vehicle, referred to earlier precedents in connection with 'arising out of'. Relevant extract of the decision is as follows:

"12. The question that arises is whether the falling of a tree on an autorickshaw, would qualify as an accident for which a claim can be filed. The phrase emphasised by us in the Section above was, in its corresponding form in the preceding legislation interpreted by this Court in Shivaji Dayanu Patil v. Vatschala Uttam More,;

⁴ 2026 SCC OnLine SC 1111

“26. These decisions indicate that the word “use”, in the context of motor vehicles, has been construed in a wider sense to include the period when the vehicle is not moving and is stationary, being either parked on the road and when it is not in a position to move due to some breakdown or mechanical defect. ... In our opinion, the word “use” has a wider connotation to cover the period when the vehicle is not moving and is stationary and the use of a vehicle does not cease on account of the vehicle having been rendered immobile on account of a breakdown or mechanical defect or accident. In the circumstances, it cannot be said that the petrol tanker was not in the use at the time when it was lying on its side after the collision with the truck.

...

33. ...The words “arising out of” were not construed to mean “arising under” as in *Union of India v. E.B. Aaby's Rederi A/S* [1975] A.C. 797 : [1974] 2 All ER 874] which decision was held inapplicable to the construction of Section 20(2)(1)(h) and it was observed by Lord Brandon:

“With regard to the first point, I would readily accept that in certain contexts the expression ‘arising out of’ may, on the ordinary and natural meaning of the words used, be the equivalent of the expression ‘arising under’, and not that of the wider expression ‘connected with’. In my view, however, the expression ‘arising out of’ is, on the ordinary and natural meaning of the words used, capable, in other contexts, of being the equivalent of the wider expression ‘connected with’. Whether

the expression 'arising out of' has the narrower or the wider meaning in any particular case must depend on the context in which it is used."

Keeping in view the context in which the expression was used in the statute it was construed to have the wider meaning viz. "connected with".

34. In the context of motor accidents the expressions "caused by" and "arising out of" are often used in statutes. Although both these expressions imply a causal relationship between the accident resulting in injury and the use of the motor vehicle but they differ in the degree of proximity of such relationship. This distinction has been lucidly brought out in the decision of the High Court of Australia in Government Insurance Office of N.S.W. v. R.J. Green case [(1965) 114 CLR 437], wherein Lord Barwick, C.J. has stated : (CLR p. 433)

"Bearing in mind the general purpose of the Act I think the expression 'arising out of' must be taken to require a less proximate relationship of the injury to the relevant use of the vehicle than is required to satisfy the words 'caused by'. It may be that an association of the injury with the use of the vehicle while it cannot be said that that use was causally related to the injury may yet be enough to satisfy the expression 'arise out of' as used in the Act and in the policy."

35. In the same case, Windeyer, J. has observed as under : (CLR p. 447)

"The words 'injury caused by or arising out of the use of the vehicle' postulate a causal relationship between the use of the vehicle and the injury. 'Caused by' connotes a 'direct' or 'proximate' relationship of cause and effect. 'Arising out of' extends this to a result that is less immediate; but it still carries a sense of consequence."

7. The phrase ‘*arising out of*’ has to be understood in the context of two other words, ‘*accident*’ and ‘*motor vehicles*’. The three Judge Bench of this Court in ***National Insurance Co. Ltd. v. Swaran Singh***⁵, discussed accidents in the following terms:

“31. The right of the victim of a road accident to claim compensation is a statutory one. He is a victim of an unforeseen situation. He would not ordinarily have a hand in it. The negligence on the part of the victim may, however, be contributory. He has suffered owing to wrongdoing of others. An accident may ruin an entire family. It may take away the only earning member. An accident may result in the loss of her only son to a mother. An accident may take place for a variety of reasons. The driver of a vehicle may not have a hand in it. He may not be found to be negligent in a given case. Other factors such as unforeseen situation, negligence of the victim, bad road or the action or inaction of any other person may lead to an accident.”

8. Accidents which may be of the above varieties must arise out of use of motor vehicle. Liability under this Act cannot be fastened only because of accident and motor vehicle. ‘*Arising out of*’ is the causal link. Without this, liability falls.

9. What is to be understood in the facts of this case is the causal relationship between the death of Anand and the motor vehicle. The judgment in ***Rita Devi v. New India Assurance Co. Ltd.***⁶, involved the primary objective of theft of the vehicle and

⁵ (2004) 3 SCC 297

⁶ (2000) 5 SCC 113

the murder of the driver thereof was in furtherance of the act of theft. In other words, the primary felonious intention was theft and, therefore, the death, which was a consequence of this, arose in relation to the motor vehicle itself.

“10. The question, therefore is, can a murder be an accident in any given case? There is no doubt that “murder”, as it is understood, in the common parlance is a felonious act where death is caused with intent and the perpetrators of that act normally have a motive against the victim for such killing. But there are also instances where murder can be by accident on a given set of facts. The difference between a “murder” which is not an accident and a “murder” which is an accident, depends on the proximity of the cause of such murder. In our opinion, if the dominant intention of the Act of felony is to kill any particular person then such killing is not an accidental murder but is a murder simpliciter, while if the cause of murder or act of murder was originally not intended and the same was caused in furtherance of any other felonious act then such murder is an accidental murder.”

10. We are, however, of the considered view that this distinction between primary and secondary felonious act cannot be made in the present case. What transpired was a perfectly innocuous set of circumstances. Anand knew Dilip and as such sat in his car and went away. Subsequently, he turned up dead three days later. It is held that in the criminal case that the last seen theory was not proved. It need not be buttressed by citations that this is a weak piece of evidence.

11. Granted the standard of proof in a criminal case is higher, either beyond reasonable doubt or ruling out of any other possibility and the chain of circumstances being so complete to point the guilt only to the accused and no one else; whereas in a civil case preponderance of probability is the standard and so the evidence has to be looked at differently. This principle has been stated aptly in **ICICI Lombard General Insurance Co. Ltd. v. Rajani Sahoo**⁷ reiterating **Mathew Alexander v. Mohd. Shafi**⁸,

“12. In this context, we could refer to the judgments of this Court in N.K.V. Bros. (P) Ltd. v. M. Karumai Ammal [N.K.V. Bros. (P) Ltd. v. M. Karumai Ammal, (1980) 3 SCC 457 : 1980 SCC (Cri) 774] , wherein the plea that the criminal case had ended in acquittal and that, therefore, the civil suit must follow suit, was rejected. It was observed that culpable rashness under Section 304-AIPC is more drastic than negligence under the law of torts to create liability. Similarly, in Bimla Devi v. Himachal RTC [Bimla Devi v. Himachal RTC, (2009) 13 SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101] (“Bimla Devi”), it was observed that in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, the Tribunal has to determine the amount of fair compensation to be granted in the event an accident has taken place by reason of negligence of a driver of a motor vehicle. 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

⁷ (2025) 2 SCC 599

⁸ (2023) 13 SCC 510

traffic accident. To the same effect is the observation made by this Court in Dulcina Fernandes v. Joaquim Xavier Cruz [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].”

12. What exactly is preponderance of probabilities was stated in *N.G. Dastane (Dr) v. S. Dastane*⁹, as follows:

“24. The normal rule which governs civil proceedings is that a fact can be said to be established if it is proved by a preponderance of probabilities. This is for the reason that under the Evidence Act, Section 3, a fact is said to be proved when the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. The belief regarding the existence of a fact may thus be founded on a balance of probabilities. A prudent man faced with conflicting probabilities concerning a fact-situation will act on the supposition that the fact exists, if on weighing the various probabilities he finds that the preponderance is in favour of the existence of the particular fact. As a prudent man, so the court applies this test for finding whether a fact in issue can be said to be proved. The first step in this process is to fix the probabilities, the second to weigh them, though the two may often intermingle. The impossible is weeded out at the first stage, the improbable at the second. Within the wide range of probabilities the court has often a difficult choice to make but it is this choice which ultimately determines where the preponderance of probabilities lies. Important issues like those which affect the status of parties demand a closer scrutiny than those like the loan on a

⁹ (1975) 2 SCC 326

promissory note: "the nature and gravity of an issue necessarily determines the manner of attaining reasonable satisfaction of the truth of the issue [Per Dixon, J. in Wright v. Wright, (1948) 77 CLR 191, 210] "; or as said by Lord Denning, "the degree of probability depends on the subject-matter. In proportion as the offence is grave, so ought the proof to be clear [Blyth v. Blyth, (1966) 1 AER 524, 536] ". But whether the issue is one of cruelty or of a loan on a promote, the test to apply is whether on a preponderance of probabilities the relevant fact is proved. In civil cases this, normally, is the standard of proof to apply for finding whether the burden of proof is discharged.

25. Proof beyond reasonable doubt is proof by a higher standard which generally governs criminal trials or trials involving inquiry into issues of a quasi-criminal nature. A criminal trial involves the liberty of the subject which may not be taken away on a mere preponderance of probabilities. If the probabilities are so nicely balanced that a reasonable, not a vacillating, mind cannot find where the preponderance lies, a doubt arises regarding the existence of the fact to be proved and the benefit of such reasonable doubt goes to the accused. It is wrong to import such considerations in trials of a purely civil nature.

13. We are of the view that even on this lighter standard, there is no causal link that has been established. A perusal of the judgments of the Courts below in a sense assume that the injuries suffered by the deceased took place while Dilip and Anand were in the car. How such a conclusion came about, is best known to them. The evidence-on-record does not point to any forensic proof having been recovered from the car for example - blood, skin cells, hair etc. Neither it is anybody's case that Dilip's car is involved in any collision. All that has been said is that the injuries

sustained by Anand were by hard and blunt objects. Now true it is that the claimants need not establish the particular manner in which injuries have been sustained by the injured or the deceased but that does not mean that simply because there was a car somehow involved in a chain of circumstances that led to his death, the provisions of MVA would apply. Some link whatsoever between the car, and the death has to be established.

14. Pursuant to the aforesaid discussion, there is an alleged accidental murder and there is a motor vehicle, but the relationship between the two specifically involving a motor vehicle has not been established. There cannot be, consequently, any liability under the MVA. Judgments of the Courts below are set aside. The appeals are allowed. In the peculiar facts, we direct that the amount of compensation, if already paid to the respondents, shall not be subjected to any recovery.

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

.....**J.**
(SANJAY KAROL)

.....**J.**
(AUGUSTINE GEORGE MASIH)

New Delhi;
July 22, 2026