

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

FAO (MV) No. 102 of 2013

Reserved on: 22.09.2026

Date of decision: 25.09.2026

Date of uploading on the website: 25.09.2026

Meena Kumari

.....Appellant

Versus

Bala Devi & Ors.

.....Respondents

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

¹ *Whether approved for reporting?*

For the appellant:

Mr. Raman Sharma, Advocate,
vice Mr. Vinod Thakur,
Advocate.

For the respondents:

Mr. Surender Verma, Advocate,
for respondents No. 1 & 2.

Ms. Sunita Sharma, Senior
Advocate with Ms. Harshita
Dogra and Ms. Manisha
Kumari, Advocates, for
respondent No. 3.

Sushil Kukreja, Judge.

The instant appeal has been maintained by the appellant, who was respondent No. 1 before the learned Motor Accidents Claims Tribunal (I), Mandi, District Mandi, H.P., (hereinafter referred to as “the learned Tribunal”) under

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), against impugned award, dated 20.01.2012, passed by the learned Tribunal, whereby Claim Petition No. 69 of 2009, filed by the petitioners was allowed against respondent No. 1 (owner of the vehicle) and they were held entitled for compensation in the sum of Rs. 1,96,200/-, alongwith interest @ 7.5% per annum from the date of filing of the petition, with a prayer to allow the present appeal by setting aside the impugned award. The parties shall be referred to as they were before the learned Tribunal below.

2. The brief facts of the case are that on 01.07.2009, around 2:30 A.M., Gagan Kumar (since deceased) was going from Sundernager to Rampur in a Swaraj Mazda Tipper, bearing registration No. HP-67-1554, which he had hired for carriage work at Rampur. When the said vehicle reached near Kotlu, Tehsil Karsog, its driver, who was driving the same in a rash and negligent manner, could not negotiate the curve and the vehicle rolled down from the road, due to which, both driver as well as Gagan Kumar died on the spot. According to the petitioners, their

son was a private contractor and painter and was earning Rs. 25,000/- per month. On the basis of these submissions, the petitioners filed the claim petition under Section 166 of MV Act seeking compensation in the sum of Rs. 15,00,000/-.

3. Respondent No. 1, owner of the offending vehicle, contested the petition by filing reply, wherein, factum of accident as well as registration of FIR has not been disputed. It has been stated that the driver was not negligent, rather the accident in question had taken place due to the mechanical failure and deceased was sitting in the truck with his goods after payment of rent. It has been further stated that the driver was possessing a valid driving licence and competent to drive the vehicle in question.

4. Respondent No. 2/Insurance Company in its reply took preliminary objections that the driver of the vehicle was not having a valid and effective driving licence, the vehicle in question was being plied in violation of terms and conditions of the Insurance Policy and that the claim petition has been filed in collusion with respondent No. 1. On merits, contents of the claim petition have been denied for want of

knowledge.

5. On 06.11.2009, the learned Tribunal below had framed the following issues for consideration and adjudication:

- “1. Whether on 1.7.2009 at 2:30 am at Kotlu Kenchi the driver was driving the Tiper No. HP-67-1554 rashly and negligently and as such caused death of Gagan Kumar? OPP***
- 2. If issue No. 1 is proved, to what amount of compensation, the petitioners are entitled to and from whom? OPP***
- 3. Whether the driver of Tipper No. HP-67-1554 was not holding a valid and effective driving licence to drive the tipper at the time of accident? OPR***
- 4. Whether the deceased Gagan Kumar was travelling in the Tipper No. HP-67-1554 as gratuitous passenger? OPR***
- 5. Relief”***

6. After the parties led evidence and after hearing the learned Counsel for the parties, the petition was allowed against respondent No. 1 and the petitioners were awarded a sum of Rs. 1,96,200/- as compensation alongwith interest @ 7.5% per annum from the date of filing of the petition.

7. Feeling aggrieved and dissatisfied, the appellant preferred the instant appeal against the impugned award dated 20.01.2012 for setting aside the same.

8. The learned counsel for the appellant contended that the vehicle in question was duly insured with respondent No. 2, as such, the learned Tribunal below has wrongly fastened the liability upon the appellant to pay the compensation. With these submissions, prayer for setting aside the impugned order and acceptance of the present appeal is made.

9. Conversely, the learned counsel for respondents No. 1 & 2 and learned Senior Counsel appearing on behalf of respondent No. 3 supported the impugned award and prayed for dismissal of the instant appeal.

10. I have heard the learned counsel for the appellant, learned counsel for respondents No. 1 & 2, learned Senior Counsel appearing on behalf of respondent No. 3 and have carefully examined the entire records.

11. Now the question which arises for consideration before this Court is that as to whether the driver of the offending tipper bearing registration No. HP-67-1554 was having a valid and effective driving licence at the time of the accident or not.

12. The perusal of record reveals that the vehicle involved in the accident is a medium goods vehicle, the registration certificate whereof has been produced on record as Ext. RW-2/A. The perusal of registration certificate of the offending vehicle shows that its laden weight is 8720 Kg and category of the same is medium goods vehicle. The driving licence of driver has been produced on record as Ext. RW-1/A, the perusal whereof shows that it has been issued to drive LMV non-transport as well as LMV transport. RW-1, Mohinder Kumar, Licensing Clerk, from the Office of RLA Sundernagar has specifically deposed that the driving licence No. DL/SNR/388/2003/2004 was valid to drive LMV non-transport vehicle upto 30.01.2015 and LMV transport w.e.f. 11.11.2004 to 10.11.2010. However, there is no endorsement on the driving licence authorizing the driver to drive medium goods vehicle.

13. In ***Bajaj Alliance General Insurance Company Limited vs. Rambha Devi & others, (2025) 3 SCC 95***, it has been held by the Hon'ble Apex Court that holders of the Light Motor Vehicle Licences (LMV) can drive Transport Vehicles

weighing under 7500 kg. However, the additional eligibility criteria specified in the MV Act and MV Rules generally for driving 'transport vehicles' would apply to the vehicles with gross vehicle weight exceeding 7,500 kg i.e. 'medium goods vehicle', 'medium passenger vehicle', 'heavy goods vehicle' and 'heavy passenger vehicle'. Relevant portion of the aforesaid judgment reads as under

"181. Our conclusions following the above discussion are as under:-

.....

181.1 A driver holding a license for Light Motor Vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7,500 kg, is permitted to operate a 'Transport Vehicle' without needing additional authorization under Section 10(2)(e) of the MV Act specifically for the 'Transport Vehicle' class. For licensing purposes, LMVs and Transport Vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e-rickshaws, and vehicles carrying hazardous goods.

181.2 The second part of Section 3(1), which emphasizes the necessity of a specific requirement to drive a 'Transport Vehicle,' does not supersede the definition of LMV provided in Section 2(21) of the MV Act.

181.3 The additional eligibility criteria specified in the MV Act and MV Rules generally for driving 'transport vehicles' would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7,500 kg i.e. 'medium goods vehicle', 'medium passenger vehicle', 'heavy goods vehicle' and 'heavy passenger vehicle'.

181.4 The decision in Mukund Dewangan (2017) is upheld but for reasons as explained by us in this

judgment. In the absence of any obtrusive omission, the decision is not per incuriam, even if certain provisions of the MV Act and MV Rules were not considered in the said judgment.”

14. Hence, in view of the aforesaid judgment, in the case on hand, since the vehicle involved in the accident was a medium goods vehicle having laden weight of 8720 Kg and there being no separate endorsement on the licence that the driver was authorized to drive medium goods vehicle at the relevant time, the learned Tribunal below did not commit any illegality by absolving the insurer and fastening liability on the owner of the tipper in question

15. Therefore, in view of my aforesaid discussion, this Court does not find any infirmity and illegality in the award passed by the learned Tribunal below. The appeal filed by the appellant being devoid of any merit is dismissed and the impugned award dated 20.01.2012 is upheld.

16. No other point was urged before me.

17. Accordingly, the appeal is disposed of, so also pending application(s), if any.

(Sushil Kukreja)
Judge

25th September, 2026 (raman)