



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

201**RSA-640-1996 (O&M)****Date of decision:07.07.2026**

PUNJAB STATE CIVIL SUPPLIES CORP. LTD.

...APPELLANT

VERSUS

OM PARKASH & OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Prabhsher Singh Walia, Advocate and
Mr. Nikhil Chambhal, Advocate
for appellant.

PARMOD GOYAL, J. (ORAL)

Present appeal has been preferred by appellant-plaintiff being aggrieved by impugned judgment and decree dated 14.10.1995 passed by the then learned Additional District Judge, Patiala vide which appeal preferred by respondent-defendant No.1 against judgment and decree dated 04.10.1993 passed by the then Additional Senior Sub Judge, Patiala vide which suit for recovery of Rs.46,048/- preferred by appellant-plaintiff was partly allowed to the extent of Rs.35,475/- along with cost and future interest @ 12% from 05.03.1987 till its actual realization was set aside.

2. Appellant-plaintiff in its suit for recovery of damages had asserted and pleaded that appellant-plaintiff was owner of truck bearing registration No.PUQ-7804 and respondent-defendant No.1 was working as cleaner and respondent-defendant No.2 was working as driver of the truck. It was alleged that on 20.11.1984, respondent-defendant No.2 parked his truck in the workshop of M/s Davinder Singh and Brothers for repairs, however, instead of getting the truck repaired, respondent-defendant No.2 asked respondent-defendant No.1 to get the same repaired and left the workshop

after handing over the keys of the truck to respondent-defendant No.1. It was further asserted that on same day at about 04:00 p.m., respondent-defendant No.1 drove the truck rashly and negligently and had caused the death of Partap Singh by running truck over him. A criminal case vide FIR No.143 dated 20.11.1984 under Section 304A of IPC was registered against respondent-defendant No.1. It was claimed that only respondent-defendant No.2 was authorized to drive the truck and respondent-defendant No.1 had no authority or competence to drive the truck. The legal representatives of deceased who had died in motor accident dated 20.04.1984 filed a claim petition under Section 110A of Motor Vehicles Act, 1988 seeking compensation for death caused by respondent-defendant No.1 and had claimed Rs.1,20,000/-. The Motor Accident Claims Tribunal, Patiala (hereinafter referred to as '**Tribunal**') vide award dated 01.09.1986, held respondent-defendant No.1 to be negligent for causing death of Partap Singh and compensation of Rs.30,000/- was awarded to Smt. Leela Wanti with interest @ 12%. However, no compensation was paid by respondent-defendant No.1 and since appellant-plaintiff was the owner of truck by which accident was caused, appellant-plaintiff had to pay Rs.35,475/- to satisfy the abovesaid award.

3. It is the case of appellant-plaintiff that since respondent-defendant No.1 was not authorized to drive vehicle and had caused the accident due to unauthorized handing over of keys by respondent-defendant No.2, therefore, appellant-plaintiff is entitled to recover the amount paid as compensation and accordingly sought recovery of said amount from both the respondents-defendants.

4. The suit was contested only by respondent-defendant No.1 and respondent-defendant No.2 was proceeded *ex parte* and had not contested the suit despite valid service. In his written statement, respondent-defendant No.1 had denied having driven the truck/offending vehicle on 20.11.1984. He also denied having caused death of Partap Singh by his rash and negligent driving of the truck. He claimed that he has been acquitted by the Court in criminal case, therefore, he is not liable to pay any amount in pursuance of claim of appellant-plaintiff.

5. Following issues were framed from the pleadings of the parties:-

- i. Whether defendant No.1 was unauthorized driver to drive the vehicles of the plaintiff as alleged ? OPP
- ii. Whether the plaintiff is entitled to the compensation as alleged ? OPP.
- iii. Relief.

6. Learned Court of First Instance vide judgment and decree dated 04.10.1993 duly accepted the evidence led by appellant-plaintiff in the shape of statements of witnesses who had appeared before Criminal Court and learned Tribunal and accordingly suit of appellant-plaintiff was decreed to the extent of Rs.35,475/- which was paid by appellant-plaintiff in execution of award dated 01.09.1986 passed by learned Tribunal MACT case filed by Smt. Leela Wanti along with future interest @ 12%.

7. Learned First Appellate Court on appeal by respondent-defendant No.1 concluded that statements made by witnesses in proceedings before learned Tribunal cannot be relied upon as the said witnesses were not examined by appellant-plaintiff and since none of the conditions mentioned

under Section 33 of the Indian Evidence Act, 1872 are met, therefore, such statements are not admissible in evidence. Award passed by Tribunal (Ex.P5) passed against appellant and respondents was ignored.

8. On consideration, I find that learned First Appellate Court has erred in rejecting the award (Ex.P5) passed by learned Tribunal from its consideration. It is worth noticing that vide award (Ex.P5), learned Tribunal had specifically given a finding of fact that it was respondent-defendant No.1, who was driving the vehicle at the time of accident dated 20.11.1984 and had therefore held respondent-defendant No.1 along with appellant-plaintiff liable to pay compensation to legal representatives of deceased represented by Smt. Leela Wanti. The said finding vide award (Ex.P5) has attained finality and is binding upon respondent-defendant No.1. It is not the case of respondent-defendant No.1 that he was authorized to drive the vehicle. Respondent-defendant No.1 simply denied that he was not driving the vehicle and has been found to be false by learned Tribunal vide (Ex.P5), Therefore, the liability so fixed by the learned Tribunal vide award (Ex.P5) is binding upon respondent-defendant No.1, who happens to be respondent No.1 in claim petition bearing No.3 dated 15.04.1985 decided on 01.09.1986.

9. Perusal of Ex.P5 goes to show that respondent-defendant No.1 was not having any driving licence and a specific stand was taken by Insurance Company that it is not liable to pay compensation as respondent-defendant No.1 was not having valid driving licence and same was accepted by the learned Tribunal. It was after appreciating the evidence of eye-witness of accident dated 20.11.1984, learned Tribunal had concluded that it was

respondent-defendant No.1 who was driving the vehicle in rash and negligent manner. The findings so recorded by learned Tribunal vide award dated 01.09.1986 (Ex.P5) has attained finality as same was not challenged by respondent-defendant No.1 at any stage. Therefore, in present appeal the claim of appellant-plaintiff stands already adjudicated vide award (Ex.P5) and only liability for wrongful act of driving vehicle without authorization was in question.

10. As noted above, neither respondent-defendant No.1 nor respondent-defendant No.2 had ever claimed that the vehicle was not entrusted to respondent-defendant No.1. Respondent-defendant No.2 has chosen not to appear and contest the suit. Respondent-defendant No.1, however, has not led any evidence to show that he was not working as cleaner or that respondent-defendant No.2 had not entrusted him the keys of the truck/offending vehicle. Learned First Appellate Court has erred in not appreciating the scope and extent of Ex.P5.

11. In view of finding recorded vide award Ex.P5, no fault with the judgment passed by learned Court of First Instance can be found. Accordingly, same is upheld and judgment passed by learned First Appellate Court is set aside.

12. Present appeal is allowed.

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

(PARMOD GOYAL)
JUDGE

07.07.2026
Sunil Chander

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No