2026:PHHC:089139

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3040 of 2024 (O&M)

VISHAL KOHLI …Appellant
Vs
USHA DEVI AND OTHERS …Respondents

1	The date when the judgment was reserved	27.05.2026
2	The date when the judgment is pronounced	02.07.2026
3	The date when the judgment is uploaded on the website	02.07.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof.	Not applicable

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Ashwani Arora, Advocate and
Mr. Vipul Sharma, Advocate
for the appellant.

Mr. R.C. Kapoor, Advocate
for respondent No.6/Insurance Company.

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HARKESH MANUJA, J.

1. The present appeal has been preferred by the appellant-owner of offending vehicle bearing registration No.PB-08CX-5417 assailing the award dated 18.04.2024 passed by the learned Motor Accident Claims Tribunal, Karnal, whereby compensation of ₹7,72,300/- along with interest @ 8% per annum was awarded on account of death of Kapil Dev Goswami and while directing respondent No.3-Insurance Company to satisfy the award, recovery rights were granted against the owner on the ground that the offending vehicle was being plied without a valid permit.

BRIEF FACTS

2. The claim petition arose out of an accident dated 29.10.2021 wherein Kapil Dev Goswami suffered fatal injuries after being hit by milk tanker bearing

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registration No.PB-08CX-5417. The learned Tribunal, upon appreciation of evidence led by the parties, held that the accident occurred due to rash and negligent driving of respondent No.1-driver and awarded compensation of ₹7,72,300/- to the claimants. Though the learned Tribunal held that the vehicle was duly insured and the driver possessed a valid driving licence, recovery rights were granted to the insurer on the premise that the owner of the offending vehicle was not possessing a valid permit on the date of accident. Aggrieved thereof, the present appeal was filed by the owner.

3. During pendency of the appeal, the appellant moved an application seeking permission to lead additional evidence by producing:-

(i) Goods Carriage Permit issued by the State of Punjab valid from 27.10.2020 to 26.10.2025;

(ii) Authorization Certificate of National Permit issued under Rule 87(2) of the Central Motor Vehicles Rules, 1989; and

(iii) Circular dated 30.09.2021 issued by the Ministry of Road Transport and Highways extending validity of vehicle documents in view of the Covid-19 pandemic.

Vide order dated 13.02.2026, this Court allowed the application and remitted Issue No.3 to the Tribunal for examination afresh.

4. Pursuant to the aforesaid order, the Tribunal recorded additional evidence and submitted its report. The learned Tribunal noticed that Ex.R6 (Permit) was valid from 27.10.2020 to 26.10.2025. Ex.R7 established authorization to ply throughout the territory of India and Ex.R8 evidenced extension of validity of transport documents upto 31.10.2021. The learned Tribunal categorically

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concluded that on the date of accident i.e. 29.10.2021, the offending vehicle was being operated under a valid permit and there was no violation of the terms and conditions of the insurance policy. The Insurance Company failed to lead any rebuttal evidence against the said documents.

DISCUSSION AND REASONING

5. I have heard learned counsel for the parties and perused the paper-book of the case.

QUESTION OF NEGLIGENCE

6. The findings recorded by the learned Tribunal on the aspect of negligence do not warrant any interference by this Court. The testimony of PW-2 Raja Goswami, who claims to be an eye-witness to the occurrence, remained consistent, cogent and trustworthy throughout. His ocular version stands duly corroborated by the contemporaneous record, namely FIR No.373 dated 29.10.2021, the report submitted under Section 173 Cr.P.C. and the criminal proceedings initiated against respondent No.1-driver in respect of the accident in question.

6.1 Significantly, respondent No.1-driver, despite having the best opportunity to controvert the allegations levelled against him, chose not to step into the witness box. In the absence of any explanation regarding the manner of occurrence, the learned Tribunal was justified in drawing an adverse inference against him. It is settled principle of law that proceedings before the Motor Accident Claims Tribunal are summary in nature and strict rules of evidence are not required to be applied. The issue of negligence is to be determined on the touchstone of preponderance of probabilities and not on the standard of proof

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applicable in criminal trials. In view of the aforesaid evidence and settled legal position, this Court finds no infirmity in the conclusion reached by the learned Tribunal that the accident occurred on account of rash and negligent driving of the offending vehicle by respondent No.1. Accordingly, the findings returned on Issue No.1 are affirmed.

QUESTION OF QUANTUM OF COMPENSATION

7. In the present case, the deceased was found to be about 60 years of age at the time of the accident. Since no reliable documentary or oral evidence was adduced to establish his actual income, the learned Tribunal rightly assessed his earnings on the basis of the minimum wages notified for an unskilled worker prevailing on the date of the accident. The learned Tribunal further extended the benefit of 10% addition towards future prospects in conformity with the law laid down by the Hon'ble Supreme Court in ***"National Insurance Company Limited v. Pranay Sethi and others," 2017 (16) SCC 680.***

Further, while computing the loss of dependency, the learned Tribunal applied the multiplier of '9' having regard to the age of the deceased, in accordance with the principles enunciated in ***"Sarla Verma v. Delhi Transport Corporation," 2009 (6) SCC 121.*** The claimants were also awarded compensation under the conventional heads, including consortium, in terms of the judgment rendered in ***"Magma General Insurance Company Limited v. Nanu Ram and others," 2018 (18) SCC 130.*** Learned counsel for the appellant has been unable to point out any material irregularity, perversity or manifest error either in the assessment of income or in the methodology adopted by the learned Tribunal for computation of compensation. The award of compensation has been determined in

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consonance with the settled principles governing motor accident claims and, therefore, does not call for any interference by this Court.

QUESTION OF RECOVERY RIGHTS

8. The primary issue that arises for consideration in the present appeal is with regard to the grant of recovery rights in favour of the Insurance Company. A perusal of the impugned award reveals that the learned Tribunal had granted recovery rights solely on the premise that the owner of the offending vehicle was not shown to be possessing a valid permit on the date of the accident. However, pursuant to the order passed by this Court permitting the appellant to lead additional evidence and directing reconsideration of Issue No.3, the appellant produced on record public documents, namely the Goods Carriage Permit, Authorization Certificate of National Permit and the Circular dated 30.09.2021 issued by the Ministry of Road Transport and Highways.

Even as per the report submitted by the learned Tribunal upon remand, clearly records a finding that the permit relating to the offending vehicle was valid from 27.10.2020 to 26.10.2025. It has further been noticed that the authorization for operation of the vehicle stood protected by virtue of the Circular dated 30.09.2021, whereby the validity of transport-related documents was extended up to 31.10.2021 owing to the Covid-19 pandemic. Since the accident occurred on 29.10.2021, the learned Tribunal while submitting its report concluded that the offending vehicle was being plied under a valid and subsisting permit on the relevant date.

8.1 Further, what is of significance is that despite adequate opportunity, the Insurance Company neither produced any evidence nor led any material to

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rebut the authenticity, validity or legal effect of the aforesaid documents. It is a settled proposition of law that the burden of establishing breach of policy conditions rests squarely upon the insurer. Mere pleading or assertion of violation is insufficient; rather, the insurer is required to prove a conscious, willful and fundamental breach attributable to the insured. Additionally, in ***National Insurance Company Limited v. Swaran Singh and others, 2004 (3) SCC 297***, the Hon'ble Supreme Court authoritatively held that the onus to establish breach of policy conditions is upon the Insurance Company. The same principle has been reiterated in ***National Insurance Company Limited v. Challa Bharathamma and others, 2004 (8) SCC 517*** and ***Pappu and others v. Vinod Kumar Lamba and another, 2018 (3) SCC 208,*** wherein it was held that recovery rights can be conferred upon the insurer only upon satisfactory proof of violation of the terms and conditions of the policy.

8.2 In the case at hand, the additional evidence brought on record conclusively establishes that the offending vehicle was covered by a valid permit on the date of the accident. In the absence of any rebuttal evidence from the Insurance Company, the very basis on which recovery rights were granted by the learned Tribunal stands demolished. Consequently, the finding recorded on Issue No.3 holding the insured guilty of breach of policy conditions and conferring recovery rights upon the Insurance Company cannot be sustained and is liable to be set aside.

CONCLUSION

9. Accordingly, the appeal is partly allowed. The award dated 18.04.2024 passed by the learned Motor Accident Claims Tribunal, Karnal is

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modified to the extent that the direction granting recovery rights to respondent No.3-Insurance Company against the appellant-owner is set aside. The findings recorded by the Tribunal regarding negligence, liability and quantum of compensation are affirmed. Respondent No.3-Insurance Company shall remain liable to satisfy the award in terms of the insurance policy without any right of recovery against the appellant-owner.

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

(HARKESH MANUJA)
JUDGE

July 02, 2026
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No

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