

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

**FAO No.1534 of 2013
Date of decision : 15.02.2016**

National Insurance Company Ltd.

.....Appellant

Versus

Paramjit Kaur and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Gopal Mittal, Advocate for appellant.
None for respondent No.3.
Respondent No.4 proceeded against *ex parte*.

DARSHAN SINGH, J.

The present appeal has been preferred by respondent No.3- the National Insurance Company Limited against the award dated 03.1.2013, passed by learned Motor Accidents Claims Tribunal, Rupnagar (hereinafter called the 'Tribunal'), vide which the claimant-respondents No.1 & 2 and performa respondent No.5 Sheela Devi have been awarded compensation to the tune of Rs.6,88,000/- on account of death of Navnish Kumar in the motor vehicular accident which took place on 10.2.2011.

2. The present appeal has been preferred by respondent No.3- Insurance Company to question the liability fastened upon it.

3. Learned counsel for the appellant-Insurance Company contended that the learned Tribunal while recording the findings under Issue No.4 has categorically mentioned that the truck in question was being plied in the State of Punjab without any valid route permit. He contended that the route permit issued for the truck in question was only valid for the State of Himachal Pradesh. The accident has taken place in the State of Punjab. There was no valid route permit to operate the truck in question in the State of Punjab. Thus, the Insurance Company is not liable.

4. I have duly considered the aforesaid contentions.

5. From the findings recorded by the learned Tribunal on issue No.4, it comes out that as per verification report Ex.R2, the truck in question was issued the route permit which was valid with effect from 21.12.2009 to 12.12.2014 and that route permit was issued for the State of Himachal Pradesh. This fact is not disputed that the said route permit was valid on the date of the accident i.e. 10.02.2011. The only plea raised by learned counsel for the appellant is that there was route permit to operate the truck in question in the State of Himachal Pradesh but the same was being unauthorizedly operated in the State of Punjab where the accident took place. So, we are to consider as to whether operating the truck beyond the area of route permit will amount to violation of the terms and conditions of the permit or not. This Court in case ***Hans Raj Chaudhary Vs. Smt. Nanhi Devi and others 2013(7) RCR (Civil) 2574***

has laid down as under:-

“The counsel appearing on behalf of the insurance company still insist that Sections 66 and 69 of the Motor Vehicles Act set out the various terms of permit and one of the terms is that be that the vehicle could traverse only within the area allowed in the permit. The language used in Section 149 that sets out the permissible defences employs the expression of user of a vehicle "for a purpose not allowed by the permit". The purpose of the permit is not the same thing as condition in the permit. The legislature has employed a language restricting it only to violation of purpose of permit. The MV Act, being a beneficial legislation, the issue of liability should be interpreted to the benefit of claimant and to the extent to which the owner obtains indemnity, it makes possible the prospect of recovery so much easier.”

6. Similarly in case ***Future General Insurance Co. Ltd. Vs. Smt. Surjo Devi and others 2013(2) RCR (Civil) 564*** this Court has laid down that a violation of any other term than the purpose for which the permit was to operate will not be a defence which will be available in the scheme of the Motor Vehicles Act.

7. In case ***National Insurance Company Ltd. Vs. Rajinder Giri and others 2012(2) RCR (Civil) 183*** the vehicle had a valid route permit for being plied in State of Rajasthan. The accident took place when the vehicle was being operated in the State of Haryana. This Court laid down as under:-

“It would be said that the vehicle had a valid route permit for being plied in the State of Rajasthan but not in Haryana State. The Transport Authority of Rajasthan State had found the vehicle fit for being plied as goods carriage. Therefore, it cannot be said that the vehicle was being plied without a route permit. The violation of bringing the vehicle to the area of State of Haryana

without a valid route permit for plying the same in the said State would not amount to violation of the conditions of the insurance policy and would not give the insurer a defence under Section 149(2) of the Act. The case before me is not a case where there is no route permit at all. Therefore, the ratio of the decision in National Insurance Co. Ltd.'s case (supra) would not stand attracted to the facts of this case.”

8. In view of the consistent ratio of law laid down in the cases referred above, mere this fact that the truck in question was being operated in the State of Punjab, though it has route permit only for the State of Himachal Pradesh will not constitute the violation of the condition of the permit as the insurance Company has not been able to establish that the vehicle in question was being used for a purpose not allowed by the permit.

9. Thus, it is not established that the insured has violated the terms and conditions of the insurance policy. Consequently, the appellant-Insurance Company cannot escape the liability. The learned Tribunal has rightly held the appellant-Insurance Company jointly and severally liable for payment of the amount of compensation.

10. Thus, keeping in view my aforesaid discussion the appeal has no merits and the same is hereby dismissed.

15.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**