Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Ananya Bandyopadhyay

FMA 714 of 2023

United India Insurance Company Limited
Versus
Purnima Ghosh & Ors.

For the Appellant	:	Mr. Sanjay Paul
For the Respondent No.1 to 3	:	Mr. Saikat Sen
Heard & Judgment on	:	13th August, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court.

2. The instant appeal had been filed against the judgment and award dated 30th March, 2023 passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, 5th Court, Purba Bardhaman in M.A.C. Case No. 35 of 2012.

3. The Learned Advocate representing the appellant/Insurance Company submitted to have filed the instant appeal solely on the

ground that the driver of the offending vehicle did not possess a valid driving licence which expired on 11th June, 2009 and the accident occurred on 17th May, 2012. The Learned Advocate representing the appellant/insurance company further submitted that on the date of the accident the driver of the offending vehicle did not possess a valid driving licence which appeared to be believable from the deposition of the representative of the RTO Hooghly being O.P. No.1. More-over, the Learned Tribunal had granted interest to the rate of 8% per annum which had been excessive.

4. The Learned Advocate representing the respondent No.1 to 3/claimants submitted that the Learned Tribunal considering each and every aspect as well as deposition of O.P.W.1 being the representative of the RTO, Hooghly had reasonably considered the driver of the offending vehicle to have been in possession of valid driving licence.

5. Since the occurrence of the accident and other ancillary issues have not been disputed by the Learned advocate representing the respondent No.1/insurance company, this Court restricts itself only to the extent of issues agitated by the Learned Advocates representing the respective parties. The Learned Tribunal in the impugned judgment and order has *inter alia* observed as follows:

"Learned advocate for the O.P No.2/Insurance Company contended that the driver of the alleged offending vehicle did not have any valid driving license on the date of accident. The learned advocate for the applicants replied to the same by submitted that the applicants have produced driving license of the said driver Khokan Sk. Being No. WB-15-118887 before the Investigating Officer, which reveals that the said driving license was issued in the name of the accused driver and the same was valid till 10.09.2013 it appears from seizure list dt. 23.05.2012 i.e. Exhibit-4.

The O.P. No.2/Insurance Company examined one Mihir Kumar Dutta, posted at Hooghly RTO Office as UDC as O.P.W.1 and in his deposition he stated that the D.L. being No. WB-15/118887 was valid up to 11.06.2009. In cross examination O.P. W.1 stated that it is not possible to say whether RTO Office of Hooghly was computerized or not after 2009. The driving license particulars are not done in computer and the entries are done manually. It is not possible for him to say anything regarding any entry in the computers of the Office of RTO, Hooghly of the driver Khakan Sk. It is not possible for him to say what happened after 2009 as there is no record to that effect either manually or computer and it is not possible for him to say anything about the computer entry of the driving license of the driver Khokan Sk.

Therefore, considering the aforesaid evidence and also considering the seizure list (Exhibit-4), it can safely said that the accused driver had valid driving license at the material point of time.

The learned advocate for the applicants in course of argument contended that even if, it is established that the driver of the alleged offending vehicle had valid driving license as on the date of the accident, the Insurance Company has the liability to pay the compensation.

The Hon'ble Supreme Court in the matter of Singh Ram vs. Nirmala & Ors. In Civil Appeal No. 2013 of 2018 arising out of SLP(c) No. 22630 of 2015 decided on 06.03.2018, held that mere absence fake or invalid driving license are not in themselves defences available to the insurer against either the insure or the third parties. To avoid its liability towards the insured, the insurer has to prove that the insured was guilty of negligence and failed to exercise reasonable care in the

matter of fulfilling of the policy regarding use of vehicle by a duly licensed driver.
In the instant case, the O.P/Insurance Company failed to discharge the aforesaid obligation".

6. The evidence of O.P.W.1 in his cross examination stated as follows:

   "***This driving licence particulars is not done in computer and the entries are done manually in this exhibit. It is not a computerized extract of the Driving License particulars of Khakan Sk. It is a fact that the Driving Licence particulars has been noted in this exhibit as per the records entered in the Driving Licence Register of the year 2009. It is a fact that it is not possible for me to say anything regarding any entry in the computers of the Office of RTO, Hooghly of the driver Khakan Sk. As per the driving licence particulars brought before this Tribunal the name of the father of Khakan Sk. Is R.Ali Sk. But the full form of R. Ali Sk. Is not known to me. There is no note in this driving licence extract that no renewal of this driving licence of Khakan Sk. was done after the year 2009. It is a fact that the entry as per this driving licence extract is upto 2009 but what happened after 2009 there is no record to that effect either manually or in the computer and it is not possible for me to say anything about the computer entry of the driver Khakan Sk. or against this Driving Licence number".***

7. Considering the submission of the O.P. W.1 as well as seizure list marked as Ext. 4 the opinion of the Learned Tribunal as stated above in the impugned judgment and order appeared to be absolutely correct and should not be interfered with. Further the compensation amount as granted by the Learned Tribunal is modified to the extent that the sum of Rs. 7,70,000/- is to be paid along with interest at the rate of 6% per annum from the date of filing of the claim application till the date of its realization.

8. The Learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 13,85,527/=(Rs. 25,000 + 13,60,527/-) through two separate cheques as per challan filed by the Learned Advocate representing the appellant/insurance company.
9. The office of the Learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited with accrued interest directly to the bank accounts of the present respondent Nos. 1 to 3/claimants in equal proportion as mentioned by Learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, 5th Court, Purba Bardhaman in M.A.C. Case No. 35 of 2012 on proof of proper identification of the respondent No.1 to 3/claimants subject to payment of ad valorem Court fees sand refund the differential amount, if any, through a cheque to the learned advocate for the insurance company for the accounts of the insurance company. The office of the Learned Registrar General, High Court at Calcutta will instruct the claimants to provide details of their bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.
10. The instant appeal is dismissed accordingly.
11. Pending applications, if any, stands disposed of.
12. The interim order if any stand vacated.

13. The TCR be sent down to the concerned tribunal forthwith.

14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m. AR. Ct.