



FAO-2482-2024 (O&M)

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

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FAO-2482-2024 (O&M)
Date of Decision:23.01.2025

**M/S CHUNAWALA BULK
CARRIER PVT LTD**

.... Appellant

V/S

**NATIONAL INSURANCE COMPANY
LIMITED AND OTHERS**

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Kajal Saini, Advocate and
Mr. Sandeep Singh, Advocate for the appellant.

Mr. Amit Kundra, Advocate for respondent No.1.

SUVIR SEHGAL, J.

1. Appellant, who is the owner of the offending vehicle, has filed the instant appeal seeking modification of award dated 27.07.2023, passed by the Motor Accident Claims Tribunal, Panipat (for short ‘the Tribunal’).
2. Counsel for the appellant submits that the tanker owned by the appellant was involved in a vehicular accident resulting in the death of Sonu, a 19 year old man, who was driving a motor cycle. Counsel submits that while accepting the claim petition filed by the legal representatives of the deceased, the Tribunal has made the insurance Company, owner and driver, jointly and severally liable to pay the compensation with liberty to the insurance company to effect the recovery from the owner and driver. By referring to the evidence led



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before the Tribunal, counsel for the appellant has urged that the Tribunal has erred in fastening the liability on the owner and the driver despite the fact that the driving licence was valid.

3. Counsel for the Insurance Company-respondent No.1 has, however, supported the findings recorded by the Tribunal and prayed for the dismissal of the appeal.

4. I have heard counsel for the parties and considered their respective submissions.

5. On the basis of the evidence adduced by the parties, the Tribunal came to the conclusion that the vehicular accident had taken place as a result of the rash and negligent driving of respondent No.2, who was driving the tanker belonging to the appellant. An FIR was registered on the basis of the statement of Raj Kumar, who was not examined and Robin PW3, who was the eye-witness, appeared in the witness box and deposed regarding the factum of the occurrence. His testimony could not be shaken despite extensive cross-examination. Tribunal has referred to **Ravi Versus Badri Narayan and others, AIR 2011 SC 1226**, to hold that the criminal case proves the factum of the accident and the delay in itself cannot be a ground for rejecting the claim petition. Reliance has also been placed by the Tribunal upon the post mortem report of the deceased Ex.P-6, which amplifies that the death had occurred due to a head injury caused in a roadside accident. The findings of the Tribunal regarding the accident and rashness of the driver cannot be interfered with.



6. Appellant produced the driving licence of respondent No.2, fitness certificate, registration certificate as well as insurance policy of the offending vehicle as Ex.P-11 to P-14. The offending vehicle was a petrol tanker and was being plied for transportation of petroleum product which is a hazardous and flammable substance. Rules 9 and 132 of the Central Motor Vehicle Rules, 1989 *inter alia* provides that the licencing authority shall make an endorsement in the driving licence to the effect that the driver is authorized to drive a goods carrier carrying goods of dangerous or hazardous nature to human life. Perusal of the driving licence, Ex.P-11 shows that the driving licence had an endorsement for carrying hazardous material, which was valid till 27.05.2020. As the validity of the endorsement expired during the Covid-19 period, the Ministry of Road, Transport and Highways, Government of India, vide notification dated 24.08.2020, Annexure A-3, extended the validity of documents relating to Motor Vehicles Act, 1988 and Central Motor Vehicles Rules, 1989 till 31.12.2020. It was provided in this notification that the documents pertaining to driving licence etc. will be treated to be valid till 31.12.2020 for all intents and purposes. The motor accident had taken place on 09.11.2020. In view of the notification, Annexure A-3, issued by the Government, the hazardous validity certificate has to be treated to be valid on the date of the accident. It is otherwise not in dispute that the driving licence Ex.P-11 issued by the Government of Uttar Pradesh, in the name of Pawan Kumar, respondent No.2 and its validity is till 29.09.2034. A similar view has been taken by the Himchal

Pradesh High Court in ***The New India Assurance Company Ltd. Versus***



7.

There is another factor which deserves to be considered. Nothing has been brought on the record to show as to whether at the time of the accident the tanker was empty or it was transporting petroleum products. In case, the vehicle was empty, the hazardousness certificate was not required and the liability of the payment of the compensation could not be fastened upon the owner and the driver.
8.

For the reasons recorded above, the finding recorded by the Tribunal qua the invalidity of the driving licence cannot be sustained. The driver and the owner cannot therefore be fastened with the liability of payment of compensation nor can the Insurance Company-respondent No.1 be given a liberty for the recovery of the compensation amount from them. Findings to the contrary recorded by the Tribunal are reversed.
9.

Award passed by the Tribunal is modified accordingly. Appeal is disposed of.
10.

As the main case has been decided, pending application is also disposed of.

23.01.2025.

pooja saini

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No