



FAO-2261-2007 (O&M)

-1-

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

FAO-2261-2007 (O&M)

Date of Decision: 24.01.2025

New India Assurance Company Limited

.....Appellant

Vs.

Ishwar Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Suman Jain, Advocate,
for the appellant-Insurance Company.

Ms. Chahat, Advocate, for
Mr. Anurag Jain, Advocate,
for respondent No.3.

SUDEEPTI SHARMA J. (ORAL)**CM-223-CII-2025**

1. The present application has been filed for early hearing in the main case i.e. FAO-2261-2007.
2. For the reasons mentioned in the application, the same is allowed as prayed for. Accordingly, with the consent of learned counsel for both the parties, hearing of the main case i.e. FAO-2261-2007 is preponed to today itself for final disposal.

FAO-2261-2007 (O&M)

1. The present appeal has been preferred against the award dated 23.03.2007 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Hisar



FAO-2261-2007 (O&M)

-2-

(for short, 'the Tribunal'), whereby the respondents/claimants were granted the compensation of Rs.2,01,000/- along with interest at the rate of 6% per annum on account of injuries sustained by respondent No.1-Ishwar Singh and the appellant-Insurance Company was held liable to pay the amount of said compensation.

FACTS NOT IN DISPUTE

2. The brief facts of the case are that on 19.06.2001, respondent No.1/claimant was coming from his village Kanwari to Hisar for attending his duties to C.C.S., HAU, Hisar, in a truck bearing No.HNH-3477, being driven by Umied Singh (respondent No.2 herein). When the offending vehicle reached near Canal Rest House, Hisar, respondent No.1/claimant requested the driver to stop the offending vehicle to drop him there. Thereafter, driver of the offending vehicle stopped the vehicle and respondent No.1/claimant was dropped. Suddenly, driver started of the offending vehicle and drove the same in a rash and negligent manner struck against the Respondent No.1/claimant, when he was in the process to move towards the C.C.S, HAU, Hisar. As a result thereof, respondent No.1/claimant fell down and was run over by the rear wheel of the offending vehicle. Due to which, respondent No.1/claimant sustained crush injuries on abdomen, legs and other parts of the body. Thereafter, respondent No.1/claimant was rushed to the General Hospital, Hisar, by one Ramesh, who witnessed the said accident. Respondent No.1/claimant was medico legally examined there and thereafter, he was shifted to Jain Orthopedics



Hospital, Hisar, where he was operated upon and remained admitted from 19.06.2001 to 23.08.2001.

3. Upon notice of the claim petition, the respondents appeared and filed their separate replies denying the factum of accident/compensation.

4. From the pleadings of the parties, the learned Tribunal framed the following issues:-

“1) Whether the accident resulting in injuries to petitioner took place on 19/6/2001 due to rash and negligent driving of Truck No.HNH-3477 by respondent No.1-Umed? OPP

2) If issue No.1 is proved, whether the petitioner is entitled to claim compensation, if so, to what amount and from whom? OPP

3) Whether the petitioner has no cause of action and locus standi to file the present petition? OPR.

4) Whether the respondent No.1 was neither the driver nor was having a valid and effective driving license at the time of accident? OPR

5) Whether the vehicle was being driven in contravention of terms and conditions of the Insurance Policy? OPR

6. Relief.”

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal has awarded compensation to the tune of Rs.2,01,000/- along with interest at the rate of 6% per annum on account of injuries sustained by respondent No.1-Ishwar Singh and the appellant-Insurance Company was held liable to pay the amount of said compensation.



Hence, the Insurance Company filed the present appeal challenging the award dated 23.03.2007 passed by the learned Tribunal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT

6. The learned counsel for the appellant-Insurance Company contends that the offending vehicle in question was a goods-carrying vehicle, and the transportation of passengers therein constitutes a breach of the terms and conditions of the insurance policy. He further contends that no premium was paid by the insured to cover the risk of unauthorized passengers traveling in the goods vehicle. Moreover, the driver was not in possession of a valid driving license at the relevant time, which is another violation of the policy conditions. Despite these material breaches, the learned Tribunal below has erroneously awarded compensation amounting to Rs.2,01,000/-. The award, being contrary to the provisions of law and the terms of the insurance contract, is illegal, unsustainable, and liable to be set aside.

7. Per contra, learned counsel for respondent No.3 submits that the award has rightly been passed by the learned Tribunal. He further submits that rather, respondent No.1/claimant-Ishwar Singh filed an appeal i.e. **FAO-3066-2007** titled as “**Ishwar Singh Vs. Umed Singh and others**” for enhancement of the compensation and that has been allowed by the Coordinate Bench of this Court vide judgment dated 27.09.2024.



8. I have heard learned counsel for the appellant-Insurance Company as well as respondent No.3 and perused the whole record of this case.

9. A perusal of the records clearly indicates that the learned Tribunal has correctly adjudicated the matter and held the insurance company liable to pay compensation. In the present case, respondent No.1/claimant sustained injuries due to the rash and negligent driving of the offending vehicle by respondent No.2 (Driver) while in the process of alighting from the vehicle. The learned Tribunal rightly rejected the contention of the appellant-Insurance Company that the respondent No.1/claimant could not be classified as a third party.

10. The learned Tribunal's reasoning aligns with the legal principle that a passenger alighting from a vehicle is to be treated as a "third party" under the provisions of the Motor Vehicles Act, 1988.

11. The learned Tribunal also correctly distinguished the present case from precedents cited by the appellant-Insurance Company, which pertained to injuries sustained by passengers traveling within vehicles and did not address situations involving passengers alighting from a vehicle.

12. The facts of the present case fall squarely within the principles laid down in **Narasamma v. United India Insurance Co. Ltd., 2004 ACJ 1608**, **Hajarilal and others Vs. Lakhanprata and others, 2006 A.C.J., 1019 (M.P)**, and similar cases. These authorities unequivocally establish that



a passenger in the process of boarding or alighting from a goods vehicle is entitled to be treated as a third party for the purpose of compensation.

13. Consequently, the liability of appellant-Insurance Company, respondents No.2 and 3, being the insurer, driver and owner of the offending vehicle, has been rightly determined to be joint and several.

14. With respect to the contention of the appellant/Insurance Company that the driver was not in possession of a valid driving license at the relevant time, it is evident from the record that the vehicle owner, RW3 Sandeep Rawal, testified unequivocally that the driver, Umed Singh, who was also known as Udaibir Singh, was employed after due verification of his driving license. The owner further stated that he exercised due diligence in ascertaining the driver's qualifications before engaging him. Additionally, respondent No.2-Umed Singh corroborated his testimony and confirmed that the driving license (Ex. R1) bears his photograph, thereby affirming his identity.

15. This Court, in its decision in **FAO-1796-2006** titled as "**Pawan Kumar Vs. Nasib Kaur and others**", decided on 27.09.2024, has previously clarified the scope of the vehicle owner's responsibility in such matters. The court held that the owner is required to exercise reasonable care by ensuring that the driver possesses the requisite driving skills and verifying the existence of a driving license. However, the owner is not obligated to approach the licensing authority to determine the authenticity of



the license. The relevant extract of the judgment passed in Pawan Kumar's case (*supra*) are reproduced as under:-

*“11. Hon’ble Supreme Court in **Rishi Pal Singh versus New India Assurance Co. Ltd. and others, SLP (Civil) NO.24933 of 2019** has held that the owner of the vehicle is expected to verify the driving skills and not run to the licensing authority to verify the genuineness of the driving license before appointing a driver. Therefore, once the owner is satisfied that the driver is competent to drive the vehicle, it is not expected from the owner thereafter to verify the genuineness of the driving licence issued to the driver.*

*12. Further, the Hon’ble Supreme Court in **Pepsu Road Transport Corporation versus National Insurance Company, 2013 (9) SCR 266** held as under:-*

*“8. In a claim for compensation, it is certainly open to the insurer under Section 149(2)(a)(ii) to take a defence that the driver of the vehicle involved in the accident was not duly licensed. Once such a defence is taken, the onus is on the insurer. But even after it is proved that the licence possessed by the driver was a fake one, whether there is liability on the insurer is the moot question. As far as the owner of the vehicle is concerned, when he hires a driver, he has to check whether the driver has a valid driving licence. Thereafter he has to satisfy himself as to the competence of the driver. If satisfied in that regard also, it can be said that the owner had taken reasonable care in employing a person who is qualified and competent to drive the vehicle. The owner cannot be expected to go beyond that, to the extent of verifying the genuineness of the driving licence with the licensing authority before hiring the services of the driver. However, the situation would be different if at the time of insurance of the vehicle or thereafter the insurance company requires the owner of the vehicle to have the licence duly verified from the licensing authority or if the attention of the owner of the vehicle is otherwise invited to the allegation that the licence issued to the driver employed by him is a fake one and yet the owner does not take appropriate action for verification of the matter regarding the genuineness of the licence from the licensing authority. That is what is explained in Swaran Singh’s case (*supra*). If despite such information with the owner that the licence possessed by his driver is fake, no action is taken by the insured for appropriate*



FAO-2261-2007 (O&M)

-8-

verification, then the insured will be at fault and, in such circumstances, the insurance company is not liable for the compensation.”

13. On the touchstone of hearing above discussed findings and judicial precedent, the award dated 17.11.2001 passed by Ld. Tribunal, Mansa stands vitiated by a complete absence of judicial application of mind to the extent that the respondents No.1 to 3 were held liable to pay the compensation.”

16. In the present case, the learned Tribunal correctly applied the above referred to principles.

17. The award passed by the learned Tribunal is based on sound reasoning and correct application of the law, requiring no interference by this Court. Consequently, the award passed by the learned Tribunal dated 23.03.2007 is upheld.

18. In view of the above, the present appeal is dismissed being devoid of merits.

19. Appellant-Insurance Company is hereby directed to disburse the current scheduled fee to Mr. Suman Jain, Advocate, pursuant to the order dated 18.07.2024 passed in FAO-1682-2007 within a period of 20 days from the date of receipt of the copy of this judgment.

20. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

24.01.2025

Virrendra

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No