

2025:PHHC:169485



FAO-1193-2008

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

FAO-1193-2008

Date of decision : 04.12.2025

Kailash Chand and another

... Appellants

Versus

The New India Assurance Company Limited and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arvind Kashyap, Advocate
for the appellants.

Ms.Vibha Dhiman, Advocate
for respondent no.1.

VIKAS BAHL, J.(ORAL)

1. The owner and driver of the offending vehicle have filed the present appeal challenging the award dated 22.01.2008 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib, (hereinafter referred to as “the Tribunal”) to the extent that respondent no.1 (insurance company) has been held entitled to recover the amount from the present appellants.

BRIEF BACKGROUND OF THE CASE

2. The claimants had filed the claim petition under Section 166 read with Section 140 of the Motor Vehicles Act, 1988 for grant of compensation on account of death of Nanu and the Tribunal had granted an amount of Rs.1,42,000/- in favour of the claimants and had directed the



insurance company to make the payment and had further held that insurance company was further entitled to recover the same from the appellants.

3. Learned counsel for respondent no.1 (insurance company) has pointed out that as far as the claimants are concerned, the amount has already been paid to them by the respondent no.1 in March 2008. The only issue which has been raised before this Court is as to whether the directions given by the Tribunal to the effect that respondent no.1 is entitled to recover the money from the present appellants is legal and valid or not.

ARGUMENTS ON BEHALF OF THE APPELLANTS

4. Learned counsel for the appellants has submitted that in the present case the sole reason given by the Tribunal for giving recovery rights to the insurance company is that appellant no.2 (driver) was not granted any licence to drive any heavy duty vehicle i.e., tanker. It is submitted that the said observations have been made on account of a perverse reading of the report of the Licencing Authority, Meerut, (U.P.) which has been exhibited by the insurance company itself. It is submitted that a closer perusal of the report of the Licencing Authority, which is duly exhibited, would show that endorsement for T.V. (Transport Vehicle) was made on 12.10.1998 on the driving licence of the appellant no.2 and thus, the appellant no.2 was entitled to drive a transport vehicle also from 12.10.1998 and that the licence was valid from 12.10.1998 to 11.10.2001. It is submitted that in the present case it is not in dispute that the accident had taken place on 12.06.2000 and thus, on the date of the said accident, appellant no.2 was



entitled to drive the transport vehicle. Learned counsel for the appellants has further submitted that as per the notification issued in exercise of the powers conferred by sub-section (4) of Section 41 of the Motor Vehicles Act, 1988 with respect to categorisation of vehicles for registration, tankers are included under the head “transport vehicles”. Reference in this regard has been made to the notification dated 19.06.1992 which was in force at the time of the accident and also to the subsequent notification dated 05.11.2004, which also shows that tankers are included under the heading “transport vehicles”. It is submitted that thus, the sole reason given by the Tribunal is perverse and against the record and deserves to be set aside and the appeal filed by the present appellants deserves to be allowed. It is further submitted that there was a stay in the present proceedings, on account of which no recovery has been effected from the present appellants.

ARGUMENTS ON BEHALF OF RESPONDENT NO.1

5. Learned counsel for respondent no.1 (insurance company), on the other hand, has submitted that the findings of the Tribunal are in accordance with law and deserves to be upheld. It is argued that respondent no.1 is in possession of a document which shows that the validity of the licence is from 29.10.2004 to 28.10.2007 and the said document is not in consonance with Ex.R6 in which the validity period has been stated from 12.10.1998 to 11.10.2001. Learned counsel for respondent no.1 during the course of arguments has handed over the said document, which is taken on record as Mark R-A and the copy of the same has been given to the learned



counsel for the appellants.

ARGUMENTS ON BEHALF OF THE APPELLANTS IN REBUTTAL

6. Learned counsel for the appellants in rebuttal has submitted that even the said document would show that the endorsement regarding T.V. (Transport Vehicle) in the licence issued to the appellants was made on 12.10.1998 and thus re-enforces the submissions made on behalf of the appellants.

ANALYSIS AND FINDINGS

7. This Court has heard learned counsel for the appellants as well as learned counsel for the respondent no.1 and has perused the paper book and is of the opinion that the present appeal is meritorious and deserves to be allowed and the award dated 22.01.2008 passed by the Tribunal, to the extent that recovery rights have been given to the respondent no.1 herein (insurance company) against the present appellants deserves to be set aside for the reasons stated hereinafter.

8. It would be relevant to note that although record of the present case of the year 2008 was partly burnt, but with the assistance of both the counsel, the same has been reconstructed and the relevant documents have been shown to this Court and have been annexed along with the present appeal.

9. As has been stated hereinabove, the only issue which requires consideration by this Court in the present case is, as to whether the present appellant no.2, who is the driver of the offending vehicle, was holding a



valid and an effective driving licence at the time of the accident or not and thus only findings under issue no.3 are in question. Issue no.3 as framed by the Tribunal is reproduced hereunder:-

“3. Whether respondent No.1 was not holding a valid and effective driving licence at the time of accident if so its effect? OPR”

10. The Tribunal has, in paragraph 14 of the judgment, given finding regarding the said aspect:-

“14. Now the question arises from whom this amount has to be recovered. Although the learned counsel if or respondent No. 1 and 2 have argued that the offending tanker was insured with respondent No. 3 insurance company and so respondent No. 3 is liable to pay the compensation yet on the other hand the learned counsel for the respondent No. 3, Insurance company has argued that infact respondent No. 1, driver of the offending tanker was not holding a legal and valid driving licence and has also tendered in to evidence insurance cover note Ex. R-5 report of Licencing Authority Meerut (UP) Ex. R.6 from which it is very clear that firstly this driving licence was valid from 12.10.1998 to 11.10.2001 and that too was only regarding motor cycle and motor car only meaning thereby that this respondent No. 1 was not granted any licence to drive any heavy duty vehicle i.e. Tanker as in this case and certainly when it is proved on record that this respondent No. 1 has got no licence to drive heavy duty vehicle then certainly it is proved on record that he was not holding a valid, legal and effective driving licence and as such I find sufficient force in this argument of learned counsel for respondent No 3 that the respondent No. 1 was not holding a valid, legal and effective driving licence at the



time of accident and certainly respondent No. 3 is not liable to make any compensation and it is only respondents No. 1 and 2 who are jointly and severally liable to make the compensation awarded today. However in view of the fact that the offending vehicle was insured with respondent No. 3 insurance company and insurance policy was in operation from 4.6.2000 to 3.6.2001 whereas this accident took place on 12.6.2000 i.e. very well within the operation of the insurance policy. So respondent No. 3 is liable to make the payment of compensation as third party claim. However, respondent No. 3 is entitled to recover this amount from respondents No. 1 and 2 independently. No evidence has been led by the respondents that claimants are not the Lrs of deceased Nannu and as such I hold that claimants are Lrs/ dependants of the deceased Nannu. In view my above discussion both these issues are decided accordingly.”

A perusal of the above finding would show that the Tribunal has relied upon two documents which have been produced by the respondent no.1 (insurance company) i.e., report of the licencing authority as well as insurance cover, which were duly exhibited and has observed that as per the report of the licencing authority, the driving licence was valid from 12.10.1998 to 11.10.2001 and thus even as per the finding of the Tribunal, appellant no.2 was holding a valid driving licence on the date of accident which is 12.06.2000. The sole reason given by the Tribunal for giving recovery rights to respondent no.1 (insurance company) was that the present appellant no.2 was not having any driving licence to drive a heavy duty vehicle i.e., tanker, which was the offending vehicle in the present



case, although it was observed that the offending vehicle was duly insured. The said observation made by the Tribunal is on account of misreading of the report of the licencing authority, which has been exhibited by the respondent no.1 (insurance company). A perusal of the said report, which has been annexed along with the present appeal, would show that it has been specifically mentioned that there was an endorsement for T.V. (transport vehicle) on 12.10.1998 in the licence of the appellant no.2 and the same was valid from 12.10.1998 to 11.10.2001.

11. The document which has been produced before this Court during the course of hearing by the learned counsel for respondent no.1, which is also attested by the licencing authority, Meerut U.P. and has been taken on record as Mark R-A, reads as under:-

“Certified Copy Of The Particular Of DLNO B-1574 MRT-96

*1. Name **Brijesh Kumar***

*2. Father's Name **Sh. Hari Singh***

*3. Add **Azad Road Lines T.P. Nagar Meerut***

*4. DL No & Issued dated **B-1574 issued 20-12-96***

*5. DOB **1-10-77***

*6. Classed of Vehicle **Motor Cycle and Motor car and T.V. on dated 12-10-98***

*7. Validity **29.10.2004 to 28-10-2007***

*8. Issued By **L.A. Meerut***

Attested

***Licensing Authority
Meerut (U.P)”***

A perusal of the report which has been exhibited as well as the above document would show that the endorsement regarding T.V. (transport



vehicle) has been made on 12.10.1998. Both the documents have been produced by the insurance company and thus, the endorsement regarding T.V. (Transport Vehicle) in the licence of the appellant no.2 has been proved on record from their own documents. The incorporation of the said endorsement has not been disputed before this Court.

12. Section 2(47) of the Motor Vehicles Act defines “transport vehicle” which means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle. Section 2(47) of the Motor Vehicles Act, 1988 is reproduced hereinbelow:-

“2(47) “transport vehicle” means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle.”

13. In exercise of the powers conferred by Section 41(4) of the Motor Vehicles Act 1988, the Central Government has issued notification dated 19.06.1992, which has produced before this Court by the learned counsel for the appellants and has not been disputed by the learned counsel for respondent no.1 and the relevant portion of which is reproduced hereinbelow:-

“Catagorisation of Vehicles for Registration

S.O.451 (E),dated 19-6-1992:- In exercise of the powers conferred by sub-section (4) of Section 41 of the Motor Vehicles Act, 1988 (59 of 1988), and in supersession of the Notification No.S.O. 436 (E), dated the 12th June, 1989, except or respects things done or omitted to be done before such supersession the Central Government hereby specified the types of motor vehicles mentioned in column 2 of the table below as the type in respect of motor vehicles specified in the corresponding entry in column 1 thereof for the purposes of sub-section (4).



THE TABLE

SI.No.	Transport Vehicles	Non-Transport Vehicles
(i)	Motor cycle with side car for carrying goods	Motor cycle with or without car for personal use
(ii)	Motor cycle with trailer to carry goods	Motor cycle with trailer to carry personal effects
(iii)	Motor cycle used for hire to carry one passenger on pillion and motorised cycle rickshaw for goods/passengers on hire.	Mopeds and motorised cycles (engine capacity exceeding 35CC)
(iv)	Motor cab and Luxury cabs.	Invalid carriage
(v)	Goods carrier trucks/ tankers / mail carriers.	Three wheeled vehicles for personal use.
(vi)	Trailors	Motor car
(vii)	Maxi cab	Fork lift
(viii)	Stage carriers	Vehicles /trailors fitted with equipments like Rig, generator, compressor
(ix)	Contract carriages and tourist vehicles	Crane mounted vehicle.
(x)	Three wheeled vehicles for transport of passenger/ goods	Tractor
(xi)	Mobile clinic/X-Ray van/ library vans	Trailors to carry personal effects.
(xii)	Private Service Vehicle	Tower wagons and tree trimming vehicles.
(xiii)	Educational Institution buses.	Two Trucks Breakdown Van Recovery Vehicles.
(xiv)	Ambulances	Omni Buses for private use.
(xv)	Mobile canteens	Camper van/trailer for private use.
(xvi)	Cash vans	
(xvii)	Articulated Vehicles	
(xviii)	Camper vans/trailers	
(xix)	Animal ambulances	



- (xx) Hearses
- (xxi) Mobile workshops
- (xxii) Fire tenders, snorkel ladders, auxiliary trailers and fire fighting vehicles.
- (xxiii) Omnibus
- (xxiv) Dumper/Excavator”

A perusal of the above would show that tankers are included under the heading “transport vehicles”. The offending vehicle in the present case is a Tanker. It is not in dispute that the said notification was in force on the date of the accident which took place on 12.06.2000. Even the subsequent notification dated 05.11.2004, which has also not been disputed before this Court, has been produced before this Court, and has also been issued by the Government of India, shows that tankers are included in the heading “transport vehicles”. The relevant portion of the said notification is reproduced hereinbelow:-

“NOTIFICATIONS UNDER THE MOTOR VEHICLES ACT
(Issued by the Central Government)
Under Section 41(4)
Specification of Types of Motor Vehicles

S.O.1248(E),dated 5-11-2004- In exercise of the powers conferred by sub-section (4) of section 41 of the Motor Vehicles Act, 1988 (59 of 1988) and in supersession of the notification of the Government of India in the erstwhile Ministry of Surface Transport No. S.O. 451(E), dated the 19th June, 1992, the Central Government hereby specifies the types of motor vehicles as mentioned in column 1 and 2 of the Table below for the purposes of said sub-section (4);

<i>Transport Vehicles</i>	<i>Non-Transport Vehicles</i>
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(1)	(2)
(i)Motor cycle with side car for carrying goods	(i)Motor cycle with or without side car for personal use.
(ii)Motor cycle with trailer to carry goods	(ii) Mopeds and motorized cycle (Engine capacity exceeding 25cc).
(iii) Motor cycle used for hire to carry one passenger on pillion and motorized cycle-rickshaw for goods or passengers on hire	(iii)Invalid carriage.
(iv) Luxury cabs.	(iv)Three-wheeled vehicles for personal use.
(v) Three wheeled vehicles for transport of passenger/goods.	(v)Motor car.
(vi)Goods carrier trucks or tankers or mail carriers (N1-N3 category).	(vi) Fork lift.
(vii) Power tillers and Tractors using public roads	(vii) Vehicles or trailers fitted with equipment's like rig, generator, and compressor.
(viii) Mobile clinic or X-ray van or Library vans	(viii) Crane mounted vehicles.
(ix)Mobile workshops.	(ix) Agricultural Tractors and power Tillers.
(x)Mobile canteens.	(x)Private service vehicle, registered in the name of an individual and if declared to be used by him solely for personal.
(xi) Private Service Vehicle.	(xi)Camper van or trailer for private use
(xii)Public service Vehicle such as maxi cab, motor cab, stage carriage and contract carriages including tourist vehicles.	(xii)Tow trucks, Breakdown Van and Recovery Vehicles.
(xiii) Educational Institution buses	(xiii) Tower Wagons and tree trimming vehicles owned by Central, State and local authorities.
(xiv)Ambulances.	(xiv)Construction Equipment vehicles as defined in rule 2(ca)
(xv)Animal ambulances.	
(xvi)Camper vans or trailers.	
(xvii)Cash vans.	
(xviii)Fire tenders, snorked ladders, auxiliary trailers and fire fighting vehicles.	



(xix) <i>Articulated vehicles</i>	
(xx) <i>Hearses</i>	
(xxi) <i>Omnibuses</i>	
(xxii) <i>Quadricycle</i>	

It could not be disputed before this Court that a tanker is a transport vehicle and that once there is an endorsement on the licence of the appellant no.2 to include T.V. (Transport Vehicle), it clearly proves that the appellant no.2 was entitled to drive transport vehicles, which included a tanker.

14. From the above, it is apparent that appellant no.2 was holding a valid driving licence to drive a tanker and the findings of the Tribunal on the said aspect are based on misreading of the documents produced by the insurance company i.e., Ex.R-5 and Ex.R-6 and are thus perverse and deserve to be set aside.

15. Keeping in view the above said facts and circumstances, the finding of the Tribunal on issue no.3 is set aside and the said issue is decided in favour of the appellants and the appeal filed by the present appellants is partly allowed and the right given to the insurance company to recover the amount from the appellants is set aside.

(VIKAS BAHL)
JUDGE

December 04, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No