



FAO-2169-2008 (O&M)

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

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FAO-2169-2008 (O&M)

Date of Decision : 26.05.2025

THE ORIENTAL INSURANCE COMPANY LTD.

.... Appellant

Versus

SHAKUNTLA AND OTHERS

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Vikas Sharma, Advocate for
Mr. R.K. Bashamboo, Advocate for the appellant.

Mr. Mohammad Arshad Advocate
Ms. Malkit Kaur, Advocate
for respondents No.1 to 5-claimants.

SUVIR SEHGAL J. (ORAL)

1. Assailing award dated 01.05.2008, passed by the Motor Accident Claims Tribunal, Gurgaon, (for short 'the Tribunal), insurance company-appellant has approached this Court by way of instant appeal filed under the provisions of the Motor Vehicles Act, 1988, (for short 'MV Act').

2. The sole submission of counsel for the appellant is that the driver of the offending vehicle possessed a licence for driving a motorcycle and motor car and the accident had taken place when he was driving a Tata-407, a heavy vehicle. By making a reference to the Insurance policy, he contends that the gross weight of the offending



vehicle was 2000 kg and driver did not possess the requisite licence for driving a heavy vehicle.

3. Appeal has been opposed by claimants/respondents No. 1 to 5 by placing reliance upon the judgment of the Constitution Bench of the Supreme Court in *M/s Bajaj Alliance General Insurance Co. Ltd. Versus Rambha Devi and others, (2023) 4 SCC 723.*

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

5. Undisputed position leading to the filing of the appeal is that on 04.10.2006, Jai Dayal, aged 42 years, Head Messenger with State Bank of India, was travelling in a Maxx. A Tata-407 bearing registration No. HR55-6386, being rashly driven by Ayub Khan collided with the Maxx and its occupants suffered injuries. Jai Dayal succumbed to his injuries on way to the hospital. A criminal case was registered vide FIR No. 140 dated 04.10.2006, under Sections 279, 337, 427 and 304-A of IPC, at Police Station Nagina. Claimants, who are the widow and four minor children of the deceased, filed a claim petition under Section 166 of the MV Act, which has been partly accepted by the Tribunal vide the impugned award and they have been granted compensation of Rs.12,62,000/- along with interest @ 7.5% per annum from the date of filing of the petition. While holding that the owner as well as the driver of Tata-407 and the Insurance Company-appellant, liable for the payment of compensation, the Tribunal came to the conclusion that the licence held by Ayub Khan was a valid licence.



6. Verification report of driving licence, Ex.R-2 shows that Ayub Khan had a licence for driving a motorcycle and a motor car. Supreme Court in **Rambha Devi’s** case (supra) has held that the holder of a licence for light motor vehicle (LMV) can drive a transport vehicle, if the gross weight of the vehicle is less than 7500 kg. It is undisputed that gross weight of TATA-407 was 2000 Kg. Therefore, Ayub Khan was competent to drive the offending vehicle. In view of the judgment of the Supreme Court, no interference is called for in the findings recorded by the Tribunal. No other argument has been addressed by counsel for the appellant.

7. Appeal being devoid of merit is dismissed with no order as to costs.

8. Pending applications are disposed of.

26.05.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

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