FAO-32-2022 (O&M)

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

**FAO-32-2022 (O&M)
Date of Reserve: November 21, 2025
Date of Pronouncement:-18.12.2025
Date of Uploading:-19.12.2025**

Oriental Insurance Co. Ltd. ......Appellant

vs.

Surender Singh and others ......Respondent(s)

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Harsh Aggarwal, Advocate
for the appellant.

Mr. Naresh Kaushik, Advocate (Through VC)
for respondent No.1.

Mr. Tarun Sharma, Advocate for
Mr. Saurabh Chawla, Advocate
for respondent No. 2.

Mr. R.S. Khushwaha, Advocate
for respondent No. 3.

Mr. Nigam K. Bhardwaj, Advocate
for respondent No. 5.

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SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Insurance Company against the award dated 13.09.2021 passed in the claim petition bearing CNR No. HRPK01-003349-2017 filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Panchkula (Haryana) (for short, 'the Tribunal') whereby the claimant was granted compensation to the

tune of Rs.5,36,000/- and the Insurance Company was held liable to pay the compensation but no recovery rights were granted to the appellant-Insurance Company.

NOT IN DISPUTE

2. Brief facts of the case are that on 11.07.2017 Jaspreet Kaur along with other claimants i.e Surender Singh, Raju and others were travelling in the three wheeler bearing registration No. HR-68-B-7394 and were coming from Ravi Dhaba, Jholuwal to village Madhanwala. At about 8:30 A.M, when they reached near village Nanakpur, District Puanchkula, in the meanwhile, a Curzer Taxi bearing registration No. 68-B-6604 being driven by respondent No. 2 rashly and negligently at a very high speed came from opposite side and hit against the three wheeler. Due to the impact of the accident, the claimants and driver of the three wheller fell down on the road. All the claimants received multiple and grievious injuries. FIR No. 224 dated 11.07.2017 was registered at P.S. Pinjore, District Panchkula under Section 279/337/338/427 of IPC regarding this accident.

3. Upon notice of the claim petition, respondents appeared and admitted the factum of compensation.

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

> *"1. Whether the accident in question resulting into the injuries and permanent disability to claimant-injured Jaspreet Kaur, Raju Singh, Surender Singh and Sandeep Singh took place on 11.07.2017 in a the area of Police Station Pinjore on account of rash and negligent driving of respondent No. 2 while driving the Cruiser Taxi bearing registration No. HR-68-B-6604? OPP.*

> *2. If issue No.1 is proved in the affirmative, then what amount of compensation, the claimants of all the claim petitions are entitled to and from whom? OPP*
>
> *3. Whether the offending cruiser taxi is being plied with contravention of the terms and conditions of the insurance policy as alloeged? OPR-4*
>
> *4. Relief."*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimant. However, the appellant-Insurance Company was held liable to pay the compensation. Hence, the present appeal.

SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES.

6. Learned counsel for the appellant-Insurance Company contends that at the time of the accident the offending vehicle was not having valid route permit. He further contends that non-possession of a valid route permit constitutes fundamental breach of the terms and conditions of the insurance policy. Despite such breach, the learned Tribunal failed to grant recovery rights to the appellant–Insurance Company against the owner of the offending vehicle. He, therefore prays that the present appeal be allowed.

7. Learned counsel for the claimant/respondent No. 1 vehemently contends that the liability has rightly been fixed upon the Insurance Company by the learned Tribunal. He further contends that the amount awarded by the learned Tribunal is on the lower side and the claimant/respondent No. 1 has also filed separate appeal bearing FAO No. 2439-2022 titled as Surender Singh vs. Janak Raj

and others seeking enhancement of the compensation amount awarded by the learned Tribunal.

8. Per contra, learned counsel for respondent No. 2/driver-cum owner of three wheeler vehemently argues on the lines of the award and prays that the present appeal be dismissed.

9. And learned counsel for respondent No. 3/driver of offending vehicle vehemently argues on the lines of the award and prays that the present appeal be dismissed since the driver of the offending vehicle was having a valid route permit.

10. I have heard learned counsel for the parties and perused the whole records of the case.

11. Before proceeding further, it is relevant to reproduce the relevant portion of the award, which reads as under:-

> ***"ISSUE NO.3:-***
>
> *70 Ex.R6 is the copy of certificate of registration of the offending vehicle in the name of respondent N: 3 Lalit Kumar. Ex.R8 to Ex R10 are the copies of permit. Ex R11 is the copy of Driving Licence in the name of respondent N: 2 Sandeep Singh (since deceased), issued by Licensing Authority, Govt. of Manipur, revealing that said respondent was authorised to drive transport vehicle w.e.f 29.12.2-13 till 20.07.2020. This period covers the date of accident for kind of offending vehicle. There is no evidence on the part of respondent No.4-Oriental Insurance Company that any of these documents as tendered in evidence by respondent N: 3 are fake. Thus, there is no evidence that respondent N:*

> *3 insured violated any of the terms and conditions of the insurance policy. In the final report u/s 173 Cr.P.C Ex.P7 also, as submitted by the police in the criminal case, there is reference of certificate of registration of Cruzer Taxi, insurance, State Permit A-B, Form 47 and pollution certificate of vehicle No.HR-68-B-6604 having been taken into possession vide recovery memo dated 03.08.2017. All the aforesaid documents are valid on the date of accident. As such, issue No.3 is decided against respondent No. 4.*

12. A perusal of Exhibit R-9, the permit issued by the Regional Transport Office, Panchkula, clearly reveals that the permit was valid for the period from 12.07.2017 to 15.06.2018. It is undisputed fact that the accident in question occurred on 11.07.2017. Thus, on the date of the accident, the offending vehicle was being plied without any valid route permit.

13. It is now well-settled law, as consistently held by the Hon'ble Supreme Court in catena of judgments, that plying a vehicle without a valid route permit at the time of the accident amounts to a material and fundamental breach of the insurance policy. In such circumstances, although the Insurance Company may be directed to satisfy the award in the first instance so as to protect the rights of the third-party claimant whereas it is entitled to recover the amount so paid from the owner of the offending vehicle.

14. Reliance in this regard may be placed upon the recent judgment of the Hon'ble Supreme Court in ***Branch Manager***, ***The National Insurance Co. Ltd. v. Avipsa Pathak (Minor), 2025 (3) TAC 42***, wherein the legal position has been reiterated. The relevant extract of the same is reproduced as under:-

"5. We are of the considered view that appeals need to be allowed to the extent of findings returned by the High Court, holding the Insurer alone, liable to pay the amount, to be, in our view erroneous, for, as has emerged from the record, the respondent-owner did not have a valid route permit to ply the vehicle at the time of occurrence of the accident. This was a material breach of the Insurance Policy.

12. Such a finding, we find to be erroneous and not borne out from the record. The vehicle in question did not have a valid route permit as on the date of occurrence of the accident, which was on 22.10.2018. Mere submission of application to obtain a route permit prior to the occurrence of the accident, ipso facto, would not make the vehicle worthy of being plied, as a stage carriage, on the road. The route permit for plying such a vehicle is a condition precedent under the provisions of the Motor Vehicles Act, 1988. Hence, the aforesaid findings need to be reversed to this effect. As such, we hold that even though the appellant (Insurer) would pay the amount to the aimants but would be entitled to recover the same, both from the owner and the driver of the vehicle in question."

15. In view of the foregoing discussion and the settled legal position, the findings recorded by the learned Tribunal on this issue are liable to be set aside. Accordingly, this Court holds that the appellant–Insurance Company shall satisfy the award amount in favour of the claimant in the first instance, with liberty reserved to it to recover the same from the owner and driver of the offending vehicle, in accordance with law.

16. In view of the above, the present appeal is allowed to the extent of granting recovery rights to the appellant-Insurance Company.

17. Accordingly, award dated 13.09.2021 passed in the claim petition bearing CNR No. HRPK01-003349-2017 is modified.

18. Pending application (s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

18.12.2025
Gaurav Arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes