IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

230 **FAO-5913-2002 (O&M)**
Date of decision:22.04.2026

RAM PARKASH ...APPELLANT

VERSUS

RAMA RANI AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Inderjit Sharma, Advocate
for appellants.

Mr. Paul S. Saini, Advocate
for respondent No.4-Insurance Company.

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PARMOD GOYAL, J. (ORAL)

Present appeal has been preferred against impugned award dated 13.09.2002 passed by Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as '**Tribunal**'), by owner being aggrieved by fixation of entire liability upon him to pay compensation of Rs.1,35,000/- along with interest, awarded to claimants in view of finding of learned Tribunal that driver was not holding a valid driving licence.

2. Claim petition was preferred by parents of deceased Vinod Kumar @ Sonu who had died in motor vehicular accident dated 08.07.1999 allegedly due to rash and negligent driving of driver Sham Lal while driving truck bearing registration No.PB-07-B-2065 (hereinafter referred to as '**offending vehicle**').

3. In present case, no appeal has been preferred by claimants or other respondents except by owner of offending vehicle who has been found liable to pay compensation. Insurance Company, was exonerated from

indemnifying owner of offending vehicle and was given right to recover the amount payable to claimants after making the payment to the claimants.

4. Learned counsel for appellant-owner has argued that the learned Tribunal has erred in fixing sole liability on appellant-owner to pay compensation by giving right to Insurance Company to pay and recover the amount of compensation awarded to claimants. It is asserted that driving license issued in favour of driver was issued by the DTO Hoshiarpur which was on the basis of old license issued by Licencing Authority Gwalior. The official from Licensing Authority, Gwalior was duly examined by Court Commissioner, who duly asserted that though driving license has been issued by their office but same was not found entered in the record of their Office. Accordingly, learned Tribunal had concluded that driver was not holding valid driving licence at the time of accident and had fixed liability on driver and owner by giving liberty to Insurance Company to recover same after making the payment.

5. Learned counsel for appellant has further argued that learned Tribunal has erred in fixing the liability on owner without taking into consideration evidence of appellant who had duly appeared as RW2. Perusal of evidence of RW2 shows that appellant had duly stated before the Court that he had employed Sham Lal as driver in the year 1996 after checking his driving license and verifying the same from DTO Hoshiarpur. RW2 had further stated that he had conducted driving test of driver and had found him fit to drive the vehicle. RW2 also stated that Sham Lal was a good driver and was not involved in any accident prior to the said accident. RW-2, in his cross-examination, denied having any knowledge about non-issuance of

license by Licensing Authority, Gwalior.

6. Upon consideration, I find that learned Tribunal has erred in not taking into consideration evidence of RW2 to exonerate Insurance Company from paying compensation jointly and severally with driver and owner of the offending vehicle. Hon'ble Supreme Court in **Pepsu Road Transport Corporation Vs. National Insurance Company**, 2014 AIR (SC) 305 had 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 verification, then the insured will be at fault and, in such circumstances, the insurance company is not liable for the compensation."*

7. From the above noted conclusions drawn by Hon'ble Supreme Court above, it is clear that even if licence of driver has been found to be fake, the liability of owner alone cannot be fixed unless it is shown that owner had not taken due care while employing the driver. Hon'ble Supreme Court had held that if an owner has duly checked the licence of driver to be valid licence, his competence as a driver and finds driver competent and qualified to drive vehicle, he cannot be expected to go beyond that extent to verify the genuineness of driving licence with the licensing authority before hiring the services of an employee as a driver.

8. In present case, appellant-owner has duly appeared and has stated that he had duly taken driving test and also verified the licence issued to driver after visiting DTO Hoshiarpur. In these circumstances, when the evidence of RW2 has gone unrebutted and when appellant-owner has duly proved due diligence while employing the driver, he cannot be held liable alone. The liability of Insurance Company to indemnify owner in such circumstance cannot be excluded. Present case is fully covered by judgment of Hon'ble Supreme Court in **Pepsu Road Transport Corporation Vs. National Insurance Company** (supra). Learned Tribunal has erred in fixing liability on driver and owner alone. Accordingly, it is held that liability to pay compensation awarded to claimants shall be joint and several on the part of owner, driver and Insurance Company and liberty given to Insurance

Company by learned Tribunal to pay the awarded compensation to claimants and recover the same from driver and owner jointly and severally is set aside.

9. Present appeal is allowed in above terms.

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

(PARMOD GOYAL)
JUDGE

22.04.2026
Sunil Chander

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No