IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) FAO-292-1999 (O&M)
Judgment reserved on :13.05.2026
Judgment pronounced on : 26.05.2026

NEW INDIA ASSURANCE CO. LTD ... APPELLANT

VERSUS

SWARAN SINGH AND OTHERS ...RESPONDENTS

(2) FAO-293-1999 (O&M)

NEW INDIA ASSURANCE CO. LTD. ... APPELLANT

VERSUS

BALWANT KUMAR AND OTHERS ...RESPONDENTS

(3) FAO-294-1999 (O&M)

NEW INDIA ASSURANCE CO. LTD. ... APPELLANT

VERSUS

TARSEM LAL AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sahil Sabherwal, Advocate,
Mr. Rohit Kataria, Advocate and
Ms. Anamika Mehra, Advocate
for the appellant.

Ms. Bhavna Kapur, Advocate
for respondent No. 3.

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PARMOD GOYAL, J.

CM-4217-CII-2021 in FAO-292-1999

For the reasons mentioned in the application for condonation of delay of 290 days in filing the present appeal, the same is allowed and the delay in filing the present appeal, is hereby condoned.

CM-4197-CII-2021 in FAO-293-1999

For the reasons mentioned in the application for condonation of delay of 290 days in filing the present appeal, the same is allowed and the delay in filing the present appeal, is hereby condoned.

CM-4272-CII-2021 in FAO-294-1999

For the reasons mentioned in the application for condonation of delay of 290 days in filing the present appeal, the same is allowed and the delay in filing the present appeal, is hereby condoned.

Main Cases

1. All the three appeals bearing FAO Nos. 292 of 1999, 293 of 1999 and 294 of 1999 preferred by respondent-Insurance Company have arisen out of common award dated 04.12.1998 passed by learned Motor Accident Claims Tribunal, Kapurthala. All the three appeals were decided by this Court vide judgment dated 16.05.2019, whereby the appeals were partly allowed and the Insurance Company was held not liable to indemnify the owner of the offending vehicle. However, the Insurance Company was directed to pay the compensation amount and recover the same from the driver and owner of the offending vehicle, who were held primarily liable to pay the compensation.

2. After passing of judgment dated 16.05.2019, respondent No. 3-owner of the offending vehicle (respondent No. 1 before the learned Tribunal) has preferred the present application seeking recall of order/judgment dated 16.05.2019 on the ground that he was neither served nor heard before passing of the aforesaid judgment. It has further been pleaded that on the date of accident, respondent No. 4-driver of the offending vehicle was holding a valid driving

licence and, therefore, the finding recorded by this Court holding that the Insurance Company is not liable to indemnify the respondent-applicant is liable to be set aside.

3. Admittedly, in the present case, the appeals preferred by the Insurance Company were dismissed for non-prosecution vide order dated 11.05.2018. Thereafter, applications were preferred by the Insurance Company for recalling order dated 11.05.2018, whereby the main appeals were dismissed for non-prosecution. It is the case of the appellants that counsel for respondent Nos. 1 and 2 were issued notice vide order dated 04.02.2019 and the matter was adjourned to 16.05.2019, when the appeals were disposed of. It is, however, the case of applicant-respondent No. 3, owner of the offending vehicle, that no notice was ever issued to him and order dated 16.05.2019 was passed behind his back without affording any opportunity of hearing to the applicant. It has further been pleaded that an adverse order affecting the rights of the applicant has been passed without hearing him. Along with the application seeking recall of order dated 16.05.2019, an application for condonation of delay in filing the said recall application has also been preferred.

4. It is the case of the applicant that after 11.05.2018, he was not aware about the proceedings conducted in the appeals preferred by the Insurance Company and, therefore, no adverse order affecting his rights could have been passed in his absence. In order to explain the delay, it has been stated that since the applicant was only aware about dismissal of the Insurance Company's appeals for non-prosecution, he had no knowledge regarding passing of order

dated 16.05.2019 without prior notice to him. The applicant came to know about the said order only when recovery proceedings were initiated against him by the Insurance Company and he was served in those proceedings on 01.03.2021.

5. For the reasons stated in the application seeking condonation of delay, I find that since no notice was ever issued to the applicant before recalling order dated 11.05.2018, the applicant had no knowledge regarding passing of order dated 16.05.2019. The applicant has approached this Court immediately after coming to know about passing of the said order upon being served in the recovery proceedings initiated by the Insurance Company for recovery of the amount, to which it was held entitled vide judgment dated 16.05.2019.

6. Accordingly, the delay in filing the application seeking recall of order dated 16.05.2019 is condoned and the application is allowed

7. Admittedly, in the present case, before passing of order dated 16.05.2019, no notice had been issued to the present applicant after dismissal of the appeals preferred by the Insurance Company on 11.05.2018. Therefore, judgment/order dated 16.05.2019 is liable to be set aside, having been passed behind the back of the applicant without affording any opportunity of hearing. Accordingly, appeal is restored to its original number.

8. In the appeals preferred by the Insurance Company, challenge had been made to the findings recorded by the learned Tribunal on Issue No. 3, whereby the Tribunal had decided the said issue against the respondent-Insurance Company and had held that the driving license possessed by the respondent-driver was valid and therefore Insurance Company-appellant is

liable to pay compensation jointly & severally.

9. It is the case of the Insurance Company that the learned Tribunal failed to take into consideration the evidence of RW-3, District Transport Officer, Jalandhar, as well as the evidence of Mool Chand, Clerk from the office of Regional Transport Officer, Jaipur, who was examined through the Local Commissioner appointed by the Court, to establish that respondent-Rashpal Singh, driver of the offending vehicle, was not holding a valid driving licence on the date of occurrence.

10. It has been argued that Mool Chand, while appearing before the Local Commissioner, had specifically disclosed that licence bearing Entry No. 2184 was originally issued in the name of Puran Singh and was renewed from time to time in the name of Puran Singh. It is the case of the Insurance Company that the learned Tribunal failed to take into consideration the evidence of Mool Chand merely on the ground that he could not identify the signatures of the then District Transport Officer. It has been further asserted that since original Licence No. 2184 of 1980 had not been issued in the name of respondent-Rashpal Singh, renewal thereof by the Licensing Authority, Jalandhar, would not cure the basic defect and, therefore, the licence held by respondent-Rashpal Singh would continue to remain invalid.

11. This Court has the advantage of considering the findings recorded by the learned Tribunal as well as the findings recorded by this Court vide judgment dated 16.05.2019. Paragraph No. 12 of the award reads as under:-

"12. *The onus to prove this issue was on the New India Assurance*

Company Limited, respondent No. 3. It was pleaded by respondent No. 3 that at the time of accident, Rashpal Singh, respondent No. 2, the driver of the offending bus was not holding a valid driving licence. To prove this plea, the respondents had examined RW2 Karnail Singh, Additional Ahalmad to the Court of Shri G S Jhaj, Additional Sessions Judge, Kapurthala. He stated that driving licence of Rashpal Singh was not on the file of the criminal case registered regarding the accident in question. RW3 Darshan Lal, Clerk of the office of the District Transport Officer, Jalandhar deposed that as per entry at serial No. 3331-A dated 15.06.1993, the driving licence of Rashpal Singh which was issued at Jaipur vide serial No. 2184 of 1989-90 was renewed upto 14.06.1996. The argument of Shri Mohit Kapur, Advocate, the learned counsel for the respondents was that Mool Chand, Clerk of the office of Regional Transport Officer, Jaipur, who was examined by the Local Commissioner has stated that the driving licence vide entry No. 2184 was not issued by the Regional Transport Officer, Jaipur in favour of Rashpal Singh, rather vide this entry driving licence was issued in favour of one Puran Singh. It was thus submitted by the learned counsel for respondent No. 3 that the driving licence, if any, which was renewed by the District Transport Officer, Jalandhar, as stated by RW3 did not in fact was the driving licence of respondent No. 2. After carefully examining the statement Ex.R/3 of Mool Chand, I do not find any merit in this argument of the learned counsel for respondent No. 3. Mool Chand, Clerk categorically in his cross examination stated that he did not know the name of the District Transport officer who had issued the licence to Puran Singh. Otherwise also, what Darshan Lal Clerk, RW3 stated in cross examination was that the driving licence was *issued at Jaipur. He did not specify the name of the Licensing Authority which had issued the driving licence. It cannot be said that the Regional Transport Officer, Jaipur was the only authority which was entitled to issue the driving licence. Moreover, the driving licence of Rashpal Singh was never produced either on the file of the criminal case registered regarding this accident or on the file of this Tribunal. In the absence of the said driving licence, no reliance can be placed on the statement of Mool Chand, Clerk, nor it can be said that the driving licence of Rashpal Singh was a fake driving licence. Shri Mohit Kapur, Advocate, the learned counsel for the respondents has relied upon* ***National Insurance Company Limited-appellant vs Santro Devi and others-respondents reported in 1997 ACJ Page 111****. In this case, a Full Bench of Punjab and Haryana High Court has held that when a person holding a fake driving licence gets it renewed by a competent authority, it would not amount to violation of the conditions of indemnity or the insurance policy or the contract or violation of any statutory provisions. At the same time, the Full Bench had also held that when a forged driving licence is validly renewed, it will not become a valid driving licence. On the basis of the law laid down in this authority, Shri Mohit Kapur, Advocate submitted that in the present case also, Rashpal Singh, respondent No. 2 was holding a forged driving licence and even if it was renewed, the same will not become a valid driving licence so as to bind the insurance company. I have given my thoughtful consideration to the arguments raised by the learned Counsel for the respondents. But, as discussed above, it has not been proved that Rashpal Singh, respondent No. 2 was holding a forged driving licence. Therefore, the proposition of law as laid down in Santro Devi's (supra) shall not be applicable to* *the facts of the present case. Moreover, the Hon'ble Supreme Court of India, before whom the Full Bench decision in Santro Devi's case was challenged had awarded the compensation to the petitioners even in the case where a forged driving licence was validly renewed. A reference in this respect can easily be made to **National Insurance Company Limited – appellant vs Santro Devi and others respondents, reported in 1998 (1) ACJ page 116**."*

12. This Court vide judgment dated 16.05.2019 had concluded as under:

"I have gone through copy of testimony of Mool Chand and report prepared by the Local Commissioner in this regard. Karnail Singh (PW2), Additional Ahalmad of the Court at Kapurthala was examined and he deposed that driving licence of Rashpal Singh is not available on the file of criminal case regarding the accident in question.

The Tribunal, in para 12 of the award, has noticed that it cannot be said that Regional Transport Officer, Jaipur was the only authority which was entitle to issue driving licence. Driving licence of Rashpal Singh was never produced either on the file of criminal case registered regarding this accident or on the file of Tribunal. Further, held that in absence of said driving licence, no reliance can be placed on the statement of Mool Chand, Clerk, nor can it be said that driving licence of Rashpal Singh was fake.

The Tribunal has failed to appreciate that though it is the obligation of the insurance company to establish that licence possessed by the driver was not valid or effective or the same was fake but primarily the insured is under an obligation to produce either copy of licence or supply particulars thereof in order to enable the insurance company to seek necessary verification from *the concerned Licensing Authority. In this context, reference can be made to judgment of Hon'ble the Supreme Court Pappu and others vs Vinod Kumar Lamba and others, AIR 2018 SC 592. In the given circumstances, benefit of non-production of copy of driving licence, by no stretch of imagination, can be extended to the insured. There is nothing on record suggestive of the fact that either the insured raised any such plea that driving licence was originally issued in favour of Rashpal Singh by a particular Licensing Authority or the same was not issued by office of Regional Transport Officer, Jaipur. In this view of the matter, findings of the Tribunal to the aforesaid extent cannot stand the test of judicial scrutiny and liable to be rejected.*

Shri Mool Chand, Clerk from the office of Regional Transport Officer, Jaipur made a statement on the basis of records maintained by the said authority. His testimony cannot be rejected merely because either he was not working in the office of said authority at the relevant time when licence at serial No. 2184 was issued in the name of Puran Singh or his failure to identify signatures of the then District Transport Officer. There is no evidence adduced by the driver or insured to counter testimony of Mool Chand, Clerk from the office of the Regional Transport Officer, Jaipur. Taking into consideration testimony of Mool Chand, Clerk from the office of Regional Transport Officer, Jaipur based upon records coupled with failure of the insured to produce the original driving licence as well as to counter testimony of Mool Chand, it can safely be held that licence purported to be issued by the Licensing Authority, Jaipur was not actually issued in favour of Rashpal Singh and, as such, renewal of said licence would not cure inherent defect in the licence possessed by Rashpal Singh.

To be fair to the driver and insured of the vehicle, it is pertinent to mention that Rashpal Singh appeared in the witness box, his testimony by way of examination-in-chief is conspicuously *silent about licence possessed by him. However, in cross examination, he has stated that licence was taken into police possession and the same was issued by the Transport Authority, Jalandhar and number of his driving licence was 3331. He denied the suggestion that his driving licence was issued from Jaipur and it was only renewed from Jalandhar. His testimony to the aforesaid effect gets falsified and belied from testimony of a witness from the office of District Transport Officer, Jalandhar who had deposed that as per entry at serial No. 3331-A dated 15.06.1993, driving licence of Rashpal Singh which was issued at Jaipur vide Sr. No. 2184 of 1989-90 was renewed upto 14.06.1996. It appears that since Rashpal Singh knew that his licence was not issued by the authority at Jaipur, he intentionally withheld the driving licence from the Tribunal and left it for the insurance company to prove its contention qua driving licence."*

13. On consideration of both the views, I find that the view taken by this Court vide judgment dated 16.05.2019 is the correct view in the facts and circumstances of the present case. The learned Tribunal had failed to take notice of the evidence of RW-2 Rashpal Singh, driver of the offending vehicle. In his evidence, the driver of the offending vehicle had asserted that his driving licence had been taken into possession by the police and that licence bearing No. 3331 was issued by the Transport Authority, Jalandhar. However, he denied the suggestion that his driving licence was originally ssued from Jaipur and was only renewed at Jalandhar. The said denial stands falsified from the evidence of PW-3, official from the Licensing Authority, Jalandhar.

14. From the testimony of PW-3, it is clearly made out that licence bearing No. 3331 was never issued by the Transport Authority, Jalandhar, but

was only renewed on the basis of a driving licence originally issued by the Licensing Authority, Jaipur bearing No. 2184 of 1989-90, which was renewed upto 14.06.1996. The evidence of PW-3 District Transport Officer, Jalandhar, therefore, clearly establishes from record entry No. 3331A dated 15.06.1993 that the original driving licence in the name of Rashpal Singh had been issued at Jaipur vide Serial No. 2184.

15. The denial by Rashpal Singh that his licence had originally been issued by Jalandhar and not by Jaipur stands falsified by the evidence of PW-3, which duly proves that driving licence bearing No. 2184 had originally been issued by the Licensing Authority, Jaipur.

16. In this background, the evidence of Mool Chand, Clerk from the office of Regional Transport Officer, Jaipur, attains significance. He has clearly stated that no licence bearing Serial No. 2184 of 1989-90 was ever issued in the name of Rashpal Singh, respondent-driver, rather the same had been issued in the name of Puran Singh. The evidence of Mool Chand, who was examined through Court Commissioner, therefore, clearly establishes that licence bearing No. 3331 renewed by the Transport Authority, Jalandhar, on the basis of original licence bearing No. 2184 issued by the Licensing Authority, Jaipur, was never issued in the name of Rashpal Singh-respondent. This fact stands duly established.

17. The learned Tribunal has wrongly discarded the evidence of Mool Chand in this regard. Once it stood proved that the Transport Authority, Jalandhar, had merely renewed the licence, it was incumbent upon the

respondent-driver to disclose particulars of the Licensing Authority which had originally issued the licence in his favour, on the basis whereof he had obtained renewal from the Transport Authorities at Jalandhar. In present case, respondent-driver made false assertion that his licence was issued by Licensing Authority, Jalndhar as is made from evidence of PW-3. Failure to disclose particulars of the original licence would go against the case of respondent-driver and owner of the offending vehicle, as the initial duty to plead and prove that the driver of the offending vehicle was holding a valid driving licence always lies upon respondent Nos. 1 and 2. It is only after such initial onus is discharged that the burden shifts upon the Insurance Company to prove that the licence being relied upon by the offending driver was not valid. In the present case, respondent-driver and owner have failed to discharge the initial onus regarding possession of a valid driving licence by the respondent-driver. Therefore, an adverse inference is liable to be drawn against them.

18. Accordingly, it was rightly held by this Court vide judgment dated 16.05.2019 that respondent-driver Rashpal Singh was not holding a valid and effective driving licence on the date of accident. A licence which is originally fake cannot be treated as valid merely because its renewal has subsequently been found to be in order. Renewal does not validate a fake driving licence. Therefore, the primary liability to pay compensation in the present case would be upon the applicant-owner as well as the respondent-driver. The Insurance Company is not liable to indemnify the owner of the offending vehicle and therefore, held entitled to recover the compensation amount paid from the respondent-driver and owner, along with interest, in accordance with law.

19. Accordingly, the appeals preferred by the Insurance Company are allowed in the above terms.

20. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly. Photocopy of this judgment be placed on the files of connected cases.

26.05.2026 **(PARMOD GOYAL)**
manoj **JUDGE**

Whether speaking/reasoned	Yes
Whether reportable	Yes/No