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

FAO-528-2021 (O&M)

Bajaj Allianz General Insurance Company Ltd. ......Appellant

vs.

Poonam and others ......Respondents

Reserved on:- 15.12.2025
Pronounced on:- 16.02.2026
Uploaded On:- 23.02.2026

Whether only the operative part of the judgment is pronounced? *NO*
Whether full judgment is pronounced? *YES*

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. D.K. Prajapati, Advocate
for the appellant-Insurance Company.

Ms. Yashasvi Rana, Advocate
Mr. Vikram Singh Punia, Advocate
for respondents.

****

SUDEEPTI SHARMA J.

CM-5240-CII-2021

1. The present application is filed for placing on record the additional evidence i.e. documents at Annexure A-2 to Annexure A-5, after the decision of the claim petition filed by the respondent/claimants.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

2. Learned counsel for the appellant-Insurance Company contends that appellants have moved an application i.e. CM-5240-CII-2021 in the present appeal for production of additional evidence as Annexure A-2, A-3, A-4 and A-5 to show that the policy placed on record by the respondent No.5/owner/driver is fake.

MOHD AYUB
2026.02.23 13:15
I attest to the accuracy and
authenticity of this order/judgment.

3. He, therefore, prays that the application be allowed and the liability to pay the compensation be decided after taking into consideration the additional evidence produced by the appellants.

4. *Per contra,* learned counsel for respondents contends that the liability has rightly been fixed after taking into consideration the evidence on record and prays that the present appeal be dismissed.

5. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

6. A perusal of file shows that the appellant was granted every opportunity and the duration of decision in claim petition is 02 years 11 days and still no evidence was produced by the appellant before the learned Tribunal to prove the insurance policy of the offending vehicle to be forged. Now, after the decision, appellant has moved the present application for placing on record additional evidence. There is nothing in the application to show the reason as to why the report of genuineness of the policy was not placed on record by the appellant/Insurance Company despite opportunity granted to them.

7. It would be appropriate to reproduce Order XLI Rule 27 of Code of Civil Procedure, 1908 and the same is reproduced as under:-

> *"ORDER XLI*
> *27. Production of additional evidence in Appellate Court.—(1) The parties to an appeal shall not be*
> *entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if —*
> *(a) the Court from whose decree the appeal is preferred has refused to admit evidence which*
> *ought to have been admitted, or*
> *[(aa) the party seeking to produce additional evidence, establishes that notwithstanding the*
> *exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of*
> *due diligence, be produced by him at the time when the decree appealed against was passed, or]*

MOHD AYUB
2026.02.23 13:15
I attest to the accuracy and
authenticity of this order/judgment.

(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause,
the Appellate Court may allow such evidence or document to be produced, or witness to be examined.
(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission."

8. A bare reading of above referred to provision of Code of Civil Procedure, 1908 shows that the party filing application for placing on record additional evidence is required to show in the application that despite due diligence the documents could not be placed on record. Whereas, in the present case, there is nothing in the application to show that despite due diligence the appellant/Insurance Company could not place on record the documents which are placed on record now to prove the genuineness of the insurance policy.

9. In view of the same, the present application is dismissed.

FAO-528-2021

10. The present appeal has been preferred against the award dated 28.01.2021 on the ground of liability fixed upon the appellant/Insurance Company.

11. Brief facts of the case are that on 17.03.2018, Gaurav (since deceased) along with his friend Pankaj son of Sat Kumar, was going from Chhotu Ram Chowk, Sonepat to Bahalgarh, District Sonepat on a motorcycle and Gaurav was pillion rider. At about 12:40 P.M., when they reached near Raunak Garden, Bahalgarh Road, Sonipat, the offending Alto Car bearing registration no. HR-29Z-2390 came from a street from Shri Nagar side, being driven by the respondent no.1 at a high speed and in a rash and negligent manner and hit the motorcycle driven by Pankaj. In the said accident, Gaurav sustained grievous head injuries. He was shifted to General Hospital, Sonepat from where he was referred to BPS Khanpur but for better treatment, he was shifted to Tulip Hospital, Delhi Road,

MOHD AYUB
2026.02.23 15:13
I attest to the accuracy and
authenticity of this order/judgment.

Sonepat, where he was declared as brought dead. The postmortem of the deceased Gaurav was conducted by the doctors of Civil Hospital, Sonepat on 17.03.2018 vide postmortem report no. PMR/15/PK/2018. On the basis of statement of Pankaj, a case bearing FIR no.75 dated 17.03.2018 under Sections 279/337/304-A IPC was registered in Police Station Civil Lines, Sonepat. This accident took place due to rash and negligent driving of the offending Alto car bearing no. HR-29Z-2390 by its driver i.e. the respondent no.1 The said offending Alto car was owned by the respondent no.I and it was insured with the respondent no.2. Both the respondents are jointly and severally liable to pay the compensation amount to the petitioners. Gaurav (since deceased) was a pharmacy student and he was earning around Rs. 30,000/- per month by giving tuition. He was 21 years old. The deceased used to contribute whole of his income upon all the petitioners, who were dependent upon him. Due to his untimely death, the petitioners have suffered mental agony, pain and they are deprived of his love and affection. By way of the present petition, a sum of Rs.One Crore has been claimed as compensation.

12. It would be apposite to reproduce the relevant portion of the award dated 28.01.2021:-

> *"18. Next question to be decided is as to who is liable to pay compensation. The offending vehicle is insured with the respondent no.2 as per the insurance policy Ex.R1, which was valid till 17.03.2018 midnight and the accident took place on 17.03.2018 at about 12.40 PM. The copy of driving licence of the respondent no.1 has been tendered in evidence as Ex.R2, which shows that the same was issued by Licencing Authority Sonepat and the respondent no.1 was authorized to crive the said vehicle and the licence is valid up to 01.05.2031. As such, the respondent no.1 was holding a valid and effective driving license on the date of accident. No evidence has been led by the in*

MOHD AYUB
2026.02.23 13:15
I attest to the accuracy and
authenticity of this order/judgment.

> *Insurance Company to establish that the respondent no.1 was contravention of the terms and condition of the Insurance Policy Ex.R1. Thus, the Insurance company is liable to indemnify the insured/owner and liability of the respondents shall be joint and several. As an upshot of the foregoing discussion, issue no.2 is hereby decided in favour of the claimants/petitioners and against the respondents. Thus, issue no.3 is decided in favour of the claimants/petitioners and against the respondent no.2."*

13. A perusal of the aforesaid findings rendered by the learned Tribunal demonstrates that the appellant–Insurance Company failed to adduce any cogent or admissible evidence to establish that respondent No.5 (driver of the offending vehicle) had acted in breach of the terms and conditions of the insurance policy (Ex.R-1). In the absence of any material on record to substantiate the plea of violation of policy conditions, the statutory liability of the insurer to indemnify the insured cannot be avoided.

14. The record further reveals that adequate and sufficient opportunities were afforded to the appellant/Insurance Company to lead evidence in support of Issue No.3, which pertained to the validity and effectiveness of the driving licence held by the driver as well as the genuineness and subsistence of the insurance policy in respect of the offending vehicle. Despite such opportunities, the appellant/Insurance Company failed to discharge the onus cast upon it. It is well settled that the burden to prove breach of policy conditions squarely lies upon the insurer, and in the absence of any evidence to that effect, the insurer cannot be absolved of its liability. Consequently, no illegality, perversity, or infirmity

MOHD AYUB
2026.02.23 13:15
I attest to the accuracy and
authenticity of this order/judgment.

can be discerned in the findings recorded by the learned Tribunal while deciding Issue No.3 against the appellant/Insurance Company.

15. In view of the foregoing discussion, the impugned award dated 28.01.2021 warrants no interference by this Court. The present appeal, being devoid of merit, is accordingly dismissed.

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

16.02.2026 **(SUDEEPTI SHARMA)**
Saahil **JUDGE**

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No

MOHD AYUB
2026.02.23 13:15
I attest to the accuracy and
authenticity of this order/judgment.