IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-2837-2013 (O&M)

M/s C and C Construction Co. ......Appellant

vs.

M/s Reliance General Insurance Co. Ltd. & ors. ......Respondents

Date of Reserve: April 24, 2026
Date of Pronouncement:- 27.04.2026
Date of Uploading:- 07.05.2026

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. Kabir Sarin, Advocates
for the appellant.

None for respondent No. 1.

Service upon respondent No. 2 dispensed with
vide order dated 14.10.2014

Mr. Naresh Kaushik, Advocate
for respondent Nos. 3 and 4.

****

SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Insurance Company against the award dated 27.02.2013 filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Panchkula (for short, 'the Tribunal') on the ground that liability to pay the compensation to the tune

of Rs. 7,74,600/- to the claimants/respondent Nos. 3 and 4 has been wrongly fastened upon the appellant-Company.

<u>FACTS NOT IN DISPUTE</u>

2. Brief facts of the case are that on 19.6.2010 at 7.00PM, Mewa Singh along with his brother were going on a cycle to Pinjore for purchasing house hold goods. They had reached near Yadvindra Garden, Pinjore, when a Tipper bearing registration No. PB-05-M-6852 came from Pinjore side at a high speed and in a rash and negligent manner and it came on the wrong side and hit the deceased. The deceased fell down and suffered injuries. He was taken to PHC Pinjore, from where he was referred to General Hospital, Sector 6, Panchkula. He was referred to PGI, Chandigarh, and he died on the way to PGI.

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 took place due to rash and negligent driving tipper bearing registration No. PB-05-M-6852.*
>
> *(2) Whether the claimants are entitled to compensation, if so to what amount and from whom? OPP*
>
> *(3) Whether the Tipper in question was being driven against the terms and conditions of the insurance policy and the provisions of Motor Vehicle Act, if so to what effect? OPR*
>
> *(4) Relief."*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants/respondent

Nos. 3 and 4. However, the appellant-Company was held liable to pay the compensation to the claimants/respondent Nos. 3 and 4. Hence, the present appeal.

SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES.

6. Learned counsel for the appellant contended that at the time of employment of the driver, due diligence was exercised by the employer. He further contends that the driver was subjected to a driving test and his driving licence was duly verified, which, on the face of it, appeared to be genuine. Despite such precautions, the learned Tribunal has erroneously fastened the liability upon the appellant–owner of the offending vehicle on the ground that the driver of the offending vehicle was not holding a valid and effective driving licence. On this premise, he prays that the present appeal be allowed and the liability to satisfy the award be shifted to respondent No.1–Insurance Company.

7. Per contra, learned counsel appearing on behalf of respondent Nos.3 and 4–claimants has supported the impugned award and submitted that the learned Tribunal has rightly appreciated the evidence on record and correctly determined the issue of liability. He, thus, prays that the present appeal be dismissed.

8. I have heard learned counsel for the parties and perused the record with their able assistance.

9. It would be apposite to reproduce relevant portion of the award. The same is reproduced as under:-

> ***"ISSUE NO. 3***
> *20. The insurance company had taken a plea that the driving licence was fake. The respondents had examined Somya Ranjan Panda, Senior Manager (Mechanical) C&C Construction Ltd.. who have his affidavit Ex.RWI/A. he stated that they had engaged a driver after checking his bio-data and experience and the driving licence appeared to be*

genuine. He produced the copy of permit, fitness certificate, copy of joining report and other documents Ex.RI to Ex.R9.

21. Harvinder Singh RW3 Licensing Clerk DTO Office Amritsar brought the summoned record and stated that driving license bearing No.2174 was issued in 1983 in the name of Daljit Singh son of Ujagar Singh for a motor-cycle and motor-car. He stated that the driving licence No.2174 was issued in the name of Satwant Singh for driving a motorcycle only on 18.6.1984. he produced the photo copy of DL register Ex.R11. he stated that DL Ex.R12 had not issued by their office. According to the report of Licensing Authority, the driving license is fake. Respondent No.1 and 2 had tendered in evidence Ex. R1 which had been issued by Regional Transport Office Nagaland. The earlier license produced by the driver was issued in 1983 which has been found to be fake.

23. The counsel for the insurance company had relied upon ***Sukhdev and another Va. M/s New India Insurance Company Ltd., and others CR No.3412 of 2011 decided on 3.7.2012; Bharat Kharbanda Vs New India Assurance Co. Ltd. And others, ACJ 1701 (P&H); Jai Parkash Goyal Vs United India Insurance Company Ltd., II (2010) CPJ 183: New Indian Assurance Co. Ltd. Vs. Kusum & Ors, II (2010) ACC 518 (SC): Ramji Lal Vs. Padamchandra Gupta and others, 2011(1) T.A.C. 2000 (M.P.); Oriental Insurance Co. Ltd. Vs. Meera and others, 2011 ACJ 23 and National Insurance Co. Ltd. Vs Challa Bharathamma & Ors. III (2004) ACC (SC)****.*

24. Counsel for the insurance company had urged that the person cannot hold two driving licenses as per section 6 of the Motor Vehicles Act and the insurance company would not be liable to indemnify the insured and the compensation has to be paid by the owner and driver.

25. A driver cannot have two driving licenses. Section 6 of the Motor Vehicles Act provides that no person is entitled to possess two driving licenses simultaneously.

26. It has been proved by the Insurance company that the license in favour of respondent No.1 was fake. The question is whether the *insurance company has to pay and then recover the amount. The Manager,* ***United India Insurance Co. Ltd. Ve Kamalabat Mukunda Kumare and others, 2012 ACZ 1011*** *the insurance company had disputed its liability on the ground that the driver was not holding a valid and effective driving license and they should be absolved from the liability. The question arose whether the Tribunal was justified in directing the insurance company to pay compensation and then recover it from the owner. The Hon'ble High Court had held that no direction could be issued as such direction could only be issued by the Hon'ble Apex Court under Article 142 of the constitution of India. It was further held that such direction could not be given by the Hon'ble High Court and the owner alone was liable to pay.*

27. In ***Oriental Insurance Co. Ltd. Va Meera and others, 2011 ACJ 23*** *the insurance company had disputed its liability to pay the compensation as the driver was having a fake license, there a duplicate license was introduced in evidence which had been fraudulently obtained. It was held that the insurance company cannot be made liable nor the court had the power to direct the insurance company to satisfy the award and recover the amount from the owner. It was further held that this power vested with the Supreme Court under Article 142 of the Constitution of India.*

28. In ***Jai Parkash Goyal vs United India Insurance Company Ltd. 11(2010) CPU 183****, the driver was found having two licenses. The first licence submitted was found to be fake. The second license was held to be invalid for all practical purposes.*

29. In ***National Insurance Co. Ltd. Vs Harbhajan Lal, 2010 ACJ 709*** *a similar question arose and Para 13 of is relevant and is reproduced for ready reference:*

> *"In our view, the point involved in the present case is squarely covered by a decision of this Court in the case of* ***National Insurance Company Limited vs. Laxmi Narain Dhut [2007 (3) S.C.C.700]****, in which it has been laid down that no sooner*

> *the insurer is able to prove that the license was fake one, the insurer is absolved from its liability."*
>
> *30. In the case in hand, the driver has two licenses. The company in which he was working had produced the license which was issued in 1983 which has been found to be fake. The insurance company had disputed its liability.*
>
> *31. Since the license was fake, no direction can be given to the insurance company to pay the amount, the amount shall be paid by respondents No.1 and 2 only."*

10. Before adverting to the merits of the present case, it would be appropriate to recapitulate the settled legal position emanating from a catena of judgments of the Hon'ble Supreme Court. It is well settled that while the insurer can raise a defence that the driver of the offending vehicle was not holding a valid and effective driving licence, the question as to whether there was a breach of policy conditions on the part of the insured is essentially a question of fact to be determined in the facts and circumstances of each case.

11. In ***IFFCO Tokio General Insurance Co. Ltd. v. Geeta Devi***, ***2023 INSC 954***, the Hon'ble Supreme Court has held that the insurance policy does not cast a specific obligation upon the owner to undertake a detailed verification of the driving licence, the insurer cannot avoid liability merely on the ground that the licence was subsequently found to be fake, nor can recovery rights be automatically granted against the owner.

12. Similarly, in ***National Insurance Co. Ltd. v. Swaran Singh***, ***AIR 2004 Supreme Court 1531***, it has been authoritatively held that although the insurer is entitled to raise a defence regarding the invalidity of the driving licence, it must further establish that the insured was guilty of wilful breach of the policy

conditions. The burden lies upon the insurer to prove that the owner failed to exercise reasonable care in verifying the credentials of the driver.

13. Keeping in view the aforesaid settled principles of law, this Court proceeds to examine the facts of the present case.

14. A perusal of the record reveals that the learned Tribunal, upon a comprehensive appreciation of the evidence, has held the appellant liable to satisfy the award. The appellant examined RW-1, Somya Ranjan Panda, Senior Manager (Mechanical), who deposed that the driver was subjected to a driving test and his driving licence was checked, which appeared to be genuine at the time of employment.

15. However, a closer scrutiny of the driving licence (Ex. R12) placed on record reveals that the same, on the face of it, lacks the indicia of genuineness. The document does not inspire confidence and appears to be manifestly fabricated. The evidence led by the Insurance Company-respondent No. 1, particularly from the Licensing Authority, unequivocally establishes that the licence in question was not issued by the competent authority and was, in fact, fake.

16. In such circumstances, the plea of the appellant that reasonable care was taken does not merit acceptance. The nature and appearance of the licence were such that any prudent employer, exercising ordinary diligence, would have detected its lack of authenticity. The failure of the appellant to do so clearly amounts to a breach of the terms and conditions of the insurance policy.

17. This Court is, therefore, of the considered view that the appellant cannot escape liability by merely asserting that a superficial verification was conducted. The entrustment of the offending vehicle to a driver holding a fake

licence, particularly when the falsity was apparent, constitutes a wilful breach of policy conditions.

18. In view of the foregoing discussion, this Court finds no infirmity or illegality in the findings recorded by the learned Tribunal. The conclusions arrived at are based on a proper appreciation of evidence and settled principles of law and do not warrant interference by this Court.

19. Consequently, the present appeal, being devoid of merit, is hereby dismissed

20. Pending application (s) if any also stands disposed of.

(SUDEEPTI SHARMA)
JUDGE

27.04.2026
Gaurav Arora

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