



FAO-2034-2016 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2034-2016 (O&M)

BALJIT SINGH

..Appellant

Versus

BALWANT SINGH AND ANR.

..Respondents

Reserved on: 17.04.2026

Pronounced on : 18.04.2026

Uploaded on: 21.04.2026

<i>Whether only the operative part of the judgment is pronounced?</i>	<i>NO</i>
<i>Whether full judgment is pronounced?</i>	<i>YES</i>

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Ms. Deepika, Advocate
for Mr. S.K. Yadav, Advocate
for the appellant.

Mr. Sachin Gupta, Advocate
for Mr. Sachin Ohri, Advocate
for respondent No.2-Insurance Company.

SUDEEPTI SHARMA, J.

1. The present appeal has been filed by the appellant/driver-cum-owner of the offending vehicle against the award dated 17.07.2015 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal'), wherein the appellant was fastened with the liability to pay the compensation of Rs.2,81,800/- to the claimants along with interest @ 9% per annum from the date of filing of claim petition till recovery.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that the accident which took place on 30.10.2012, at about 12:30 PM near Aakash Polytechnic Board, Kanina by



respondent no.1 while driving his Motor cycle bearing Registration no.HR34F/4333 at high speed, in rash and negligent manner without observing rules of road. It has been averred that on 30.10.2012 the petitioner along with his brother Hoshiyar Singh was going from one field to another field on feet and at about 12:30 PM when they reached near the Board of Aakash Polytechnic, Kanina then from Gahda side one motor cycle bearing registration no.HR34F-4333 came, which was being driven by its driver i.e. respondent no.1 Baljeet Singh in a rash and negligent manner and gave a direct hit to him, as a result thereof the petitioner sustained simple as well as grievous injuries. He was taken to Aditya hospital, Rewari for treatment from where he took the treatment. This accident has taken place due to the sole negligence of the respondent no.1 by driving his motor cycle in a rash and negligent manner. FIR no.303 dated 7.11.2012 under Sections 279, 337 and 338 IPC, Police Station Kanina was got registered.

3. Upon notice of the claim petition, respondents therein appeared and contested the claim petition by filing separate written statement denying the factum of accident/compensation.

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

- 1. Whether petitioner Balwant Singh sustained injuries in a road side accident which took place on 30.10.2012 at about 12:30 PM near M. Aakash Polytechnic Board, Kanina due to rash and negligent driving of motor cycle bearing registration no.HR-34F-4333?OPP*
- 2. To what amount of compensation, if any, and from whom the claimant is entitled ?OPP*



3. Whether the vehicle in question was being driven by respondent no.1 in violation of terms and conditions of insurance policy?OPR

4. Relief.

5. Thereafter, both the parties led their evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the appellant/driver-cum-owner of the offending vehicle was fastened with liability to pay compensation to the respondent No.1/claimant. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT:

7. Learned counsel for the appellant/driver-cum-owner of the offending vehicle contends that learned Tribunal has gravely erred in fastening the liability to pay compensation to respondent No.1/claimant upon appellant/driver-cum-owner on erroneous premise that the appellant/driver-cum-owner of the offending vehicle does not possess the valid and effective licence at the time of accident. Therefore, he prays that the present appeal be allowed and respondent No.2-insurance company be held solely liable to pay compensation to claimant-respondent No.1.

8. Learned counsel for respondent No.2-insurance company contends that the learned Tribunal has rightly decided the issue of liability, therefore, he prays for dismissal of the present appeal.

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

10. The relevant portion of the award is reproduced as under:-

***“Issue no.3***

20. Now, the question arises as to who is liable to pay the compensation.

21. Learned counsel for the respondent no.3 by putting reliance upon United India Insurance Co. Ltd. Vs. Sujata Arora and others 2013 ACJ 2129 (SC), Oriental Insurance Co. Limited Vs. Prithvi Raj 2009 (1) AICJ 221 and Oriental Insurance Company Ltd. Vs. Poonam Kesarwani and others 2010 ACJ 1992 has contended that the vehicle was not being driven by the person having valid driving licence, so, insurance company is not liable to pay the compensation.

22 Learned counsel for the respondent no.1 has contended that the insurance company has failed to prove that the respondent no.1 was not having valid driving licence. Learned counsel for the respondent no.1 further contended that the respondent no.2 has failed to call any person from the licencing authority despite due opportunities granted to it. In support of his contention learned counsel for the respondent no.1 has put reliance upon National Insurance Co. Ltd. Vs. Nebh Raj and others 2004 ACJ 209. The Oriental Insurance Company Ltd. Vs. Ashwinder Singh and others 2006-2) PLR 318. Learned counsel for the respondent no.1 has submitted that the insurance company may kindly be held liable to pay the compensation.

23. In 2009 (1) AICJ 221, it is held that the fake driving licence renewed by Licencing Authority, will remain fake. Renewal cannot take away effect of fake licence and transform a fake licence as genuine.



24. In 2010 ACJ 1992 with regard to right of Insurance Company to seek information from the registering authority, it is held that under Section 160 of Motor Vehicles Act 1988 insurance company is entitled to seek information from registering authority or licencing authority in Form 54 on payment of prescribed fee registering authority is empowered to register motor vehicles and licencing authority is empowered to issue licences. Information about licence can only be furnished by the licencing authority where powers of registering authority and licencing authority are exercised by different officers. The registering authority shall include the licencing authority under Section 160 and rule 150 (2) of the Act. The question was answered in affirmative, otherwise the intention of legislature to furnish any information on payment of prescribed fee would be frustrated. It is further held that under Section 26 of the Act, rules 23 of the Central Motor Vehicles Rules, 1989 and Sections 74 and 77 of the Evidence Act, 1872 the certified copy of State Register of Driving Licences is a public document and need not be proved by examining a witness.

25. In 2013 ACJ 2129, it is held by Hon'ble Apex Court that when the driving licence is found fake then insurance company is not liable to pay the compensation.

26. On the other hand, in 2004 ACJ 209 the insurance company contended that the driver of the offending vehicle was not having valid and effective driving licence but the company failed to prove the report of investigator and licencing authority as per law by summoning and examining the witness from



the licencing authority despite opportunities granted by the tribunal. It is held that the company is liable to bear the expenses of the compensation. 27 In 2006 (2) PLR 318 the Hon'ble Division Bench of our own High Court has held that disqualification of the driver of invalidity of driving licence was required to be proved by the insurer to avoid liability by the insurer. Mere absence, fake or invalid driving licence or disqualification of the driver at the relevant time are not in themselves defences available to the insurer against the insured or a third party.

28 In the instant case, the insurance company has tendered in evidence copy of insurance Ex.R1 letter from Nagaland Government for verification of driving licence Ex.R2, Ex.R3 the treasury challan, Ex.R4 speed post cover.

29. Ex.R2 is the letter dated 10.9.2014 under the subject verification of driving licence no.10549/PK/PVT/2010 under RTI. In the letter it is specifically mentioned that the aforesaid driving licence number is not available as per the office record of the officer of District Transport Officer, Phek, Nagaland. This document is admissible in evidence under Section 26 of the Act, Rules 23 of Rules 1989 and Section 74 and Section 77 of Indian Evidence Act, 1872 being a public document and need not to be proved by a witness as held in 2010 ACJ 1992 (Supra). In other words, the respondent no.2 has adduced sufficient evidence to prove that the driving licence held by the respondent no.1 on the date of occurrence was not valid. Latest law prevails hence the law cited by learned counsel for the respondent no.1 is not helpful. Hence, insurance



company is not held liable to pay the compensation amount to the petitioner.

30. Therefore, issue No.3 stands decided in favour of the respondent No.2.”

11. A perusal of the record reveals that learned Tribunal has erred in fastening liability upon appellant/driver-cum-owner on the erroneous premise that the driving licence of the appellant was fake. It is trite that to prove any violation in the terms and conditions of insurance policy is solely upon insurer i.e. Insurance Company. Mere assertion of breach in the absence of substantiating evidence is not sufficient to exonerate the insurer. In the case in hand, the respondent No.2-Insurance Company has miserably failed to prove by leading cogent evidence to prove that the driving licence possessed by the appellant was fake.

12. In view of the above, the finding of learned Tribunal are perverse and are hereby set aside. In wake of above discussion, respondent no.2-Insurance Company is held liable to pay compensation to respondent no.1/claimant.

13. Consequently, the present appeal is allowed.

14. The statutory amount of Rs.25,000/- deposited by the appellant at the time of admission of the appeal, is ordered to be refunded to him.

15. Pending miscellaneous applications, if any, are also disposed of.

18.04.2026

Ayub/Saahil

(SUDEEPTI SHARMA)
JUDGE

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