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

FAO-2813-2017 (O&M)

OM PARKASH

..Appellant

Versus

BALRAM AND ANR.

..Respondents

Reserved on: 27.04.2026
Pronounced on: 28.04.2026
Uploaded on : 04.05.2026

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. Sanjeeev Kodan, Advocate
for the appellant.

Ms. Manvi Singh, Advocate
for Mr. Ajay Ghangas, Advocate
for respondent No.1.

Mr. Anoop Kumar Yadav, 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 19.07.2016 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Jhajjar (for short, 'the Tribunal'), wherein the claim petition filed by the claimant was allowed and appellant/driver-cum-owner of the offending vehicle was made liable to pay the compensation.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 16.11.2014 at about 4.00 PM. The petitioner has claimed that on 16.11.2014 at about 4.00 PM, he alongwith his son, Yaspal was going to Helimandi from Silani on his motor-cycle bearing registration no.HR-14D-6427, when they reached near Devi Mandir, Raipur maur, a tempo bearing registration no.HR-63B-7196 came from wrong side, driven in rash, negligent and zig-zag manner at a very high speed and directly hit in his motorcycle, due to which he fell down and received grievous injuries. He further pleaded that he was initially treated at Government Hospital, Jhajjar, and lateron referred to PGIMS Rohtak. He claimed the compensation on account of expenditure on medical treatment, transportation, disability, pain and suffering, loss of income etc. Claim is made against respondent no.1 Om Parkash, being the driver and owner, and respondent no.2 National Insurance Company Ltd., being the insurer.

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

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

> *"1. Whether the accident, resulting into the injuries sustained by Balram son of Sh. Chanderbhan had taken place due to rash and negligent driving of vehicle i.e. tempo bearing registration no. HR-63B-7196 by respondent no.1? OPP.*
>
> *2. If issue no. 1 is proved in affirmative, whether the petitioner is entitled to compensation, if so, to what amount and from whom? OPP.*

3. Whether the respondent no.1 was not holding valid driving license on the date of alleged accident and whether respondent no.1 has contravened the terms and conditions of the Insurance policy, if so its effect? OPR-2.

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 claimant and appellant/driver-cum-owner of the offending vehicle was held liable to pay compensation. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:

7. Learned counsel for the appellant/driver-cum-owner of the offending vehicle contends that the learned Tribunal has committed a manifest error in fastening liability upon the appellant to pay compensation to the claimant/respondent No. 1. It is submitted that the finding of the Tribunal is premised on an erroneous assumption that the appellant did not possess a valid and effective driving licence to operate the offending vehicle, i.e., a three-wheeler. In this regard, it is argued that the appellant was duly holding a valid driving licence authorizing him to drive a heavy motor vehicle, and the Tribunal failed to properly appreciate the scope and validity of the said licence.

8. He further contends that the learned Tribunal erred in holding the appellant liable on the ground that the offending vehicle was being plied without a valid permit. According to the appellant, such a finding is legally unsustainable and does not justify the imposition of liability solely upon him, particularly when the vehicle was insured.

9. On the aforesaid premises, learned counsel for the appellant/driver-cum-owner of the offending vehicle prays that the present appeal be allowed, the impugned award be set aside to the extent it fastens liability upon the appellant, and the liability to satisfy the award be instead shifted to respondent No. 2, the insurance company, in accordance with law.

10. Per contra, learned counsel appearing on behalf of respondent No. 2–insurance company supports the findings recorded in the impugned award and submits that the same are based on proper appreciation of the evidence on record and settled legal principles. It is, therefore, prayed that the present appeal, being devoid of merit, be dismissed.

11. Learned counsel for respondent No.1-claimant has vehemently argued on the line of award and prays for dismissal of the present appeal.

12. I have heard learned counsel for the parties and perused the whole case file with their able assistance.

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

> *"Issue No.3*
>
> *17. For the sake of clarity issue no. 3 is reproduced as under:-*
>
> *"Whether the respondent no.1 was not holding valid driving license on the date of alleged accident and whether respondent no.1 has contravened the terms and conditions of the Insurance policy, if so its effect? OPR-2"*
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> *18. The onus to prove this issue was on respondent no.2. ld. counsel for respondent no.1 has tendered the documents i.e. copy of insurance as Ex.R1, copy of driving licence as Ex.R2, copy of RC as Ex.R3, copy of permit as Ex.R4, copy of temporary registration certificate as Ex.R5. As per Ex.R1, the vehicle bearing*

registration no.HR-63B7196 was insured by respondent no.2 from 10.10.2014 to 09.10.2015. As per Ex.R2, the respondent no.1 Om Parkash was having a driving licence to drive heavy motor vehicle only which is originally issued on 11.01.2008 and renewed on 18.11.2014 and is valid upto 17.03.2017. As per Ex.R3, the vehicle bearing registration no.HR-63B-7196 is a three-wheeler/auto-rickshaw valid from 03.12.2012 to 20.11.2014 and owned by respondent no.1 Om Parkash. As per Ex.R4, the three-wheeler bearing registration no.HR-63B-7196 was issued permit no.241/AR-2015 valid upto 30.08.2020. The Ex.R5 is a temporary registration certificate.

19. As per driving licence Ex.R2, the respondent no.1 Om Parkash was having a driving licence issued by Licensing Authority Bahadurgarh valid for HMV only. Learned counsel for respondent no.2 has argued that the driving licence Ex.R2 of respondent no.1 is valid only for HMV and is not valid for the purpose of driving three-wheeler which is a separate class of vehicle. He relied upon the case titled Oriental Insurance Company Ltd. vs. Zaharulnisha and others, 2008 ACJ 1928 (SC), in which it has been observed that

".........18. In the light of the above settled proposition of law, the appellant insurance company cannot be held liable to pay the amount of compensation to the claimants for the cause of death of Shukurullah in road accident which had occurred due to rash and negligent driving of scooter by Ram Surat who admittedly had no valid and effective licence to drive the vehicle on the day of accident. The scooterist was possessing driving licence of driving HMV and he was driving totally different class of vehicle which act of his is in violation of Section 10 (2) of the MV Act.

19. In the result, the appeal is allowed to the limited extent and it is directed that the appellant insurance company though not liable to pay the amount of compensation, but in the nature of this case it shall satisfy the award and shall have the right to recover the amount deposited by it along with interest from the owner of the vehicle,..........”

20. Thus, in the light of above cited judgment, it is clear that it cannot be held that the respondent no.1 Om Parkash was having a valid driving licence for driving the three-wheeler despite the fact that he was having a valid driving licence to drive the heavy motor vehicle.

21. Furthermore, ld. counsel for respondent no.2 has also argued that the respondent no.1 was not having a valid permit on the date of accident as the permit Ex.R4 has been issued in 2015 and the accident in question has occurred in 2014, and respondent no.1 has not placed on record any earlier permit. On this issue, ld. counsel for respondent no.1 has argued that subsequent permit is issued only when earlier permit is deposited, however, he failed to substantiate his claim by pointing out any such rule or placing on record the permit valid for earlier period. The vehicle in question is a passenger vehicle as reflected from its registration certificate Ex.R3. Thus, in light of the judgment of Hon'ble Supreme Court titled National Insurance Company Ltd. vs. Challa Bharathamma, 2004 ACJ 2094 (SC), it amounts to violation of terms and conditions of the Insurance Policy.

22 Thus, in view of above-discussed facts, it is clear that respondent no.1 was neither having a valid driving licence nor a valid permit at the time of accident. Thus, this issue is decided in favour of respondent no.2 and against the respondent no.1.”

14. A perusal of Ex.R-1 (Insurance Policy), Ex. R-2 (driving licence) and Ex.R-3 (Registration Certificate) reveals that the offending vehicle was a three-wheeler. As per the record, the gross vehicle weight of the offending vehicle (three-wheeler) is recorded as around 825 kilograms, i.e. below 7500 kilograms. Thus, the vehicle clearly falls within the category of a Light Motor Vehicle.

15. In view of the aforesaid factual position, the finding recorded by the learned Tribunal that the driver, though holding an HMV licence, was not authorised to drive the offending vehicle and that driver of the offending vehicle was not having a valid and effective driving licence is unsustainable in the eyes of law.

16. This Court in ***FAO-3952-2006, titled as "United India Insurance Company and others Vs. Manjit Kaur and others", decided on 07.11.2024***, while relying upon the Constitution Bench judgment of the Hon'ble Supreme Court in ***M/s Bajaj Allianz General Insurance Co. Ltd. v. Rambha Devi & Ors., 2024 INSC 840***, has held that a driver holding a valid LMV/HMV licence is competent to drive a transport vehicle of that class having a gross vehicle weight not exceeding 7500 kilograms, without any separate endorsement.

17. A perusal of the impugned award further reveals that the learned Tribunal has proceeded to hold that the offending vehicle was being plied without a valid permit on the date of the accident and, on that premise, concluded that there was a breach of the terms and conditions of the insurance policy.

18. Such a finding, however, cannot be sustained in law. It is well settled that any alleged breach of policy conditions must not only be

specifically pleaded but also strictly proved by the insurer by leading cogent and reliable evidence. The burden to establish such violation squarely rests upon the insurance company. In the present case, except for raising a bald contention regarding the absence of a valid permit, the respondent No.2–insurance company has neither produced any substantive evidence nor discharged the onus cast upon it in accordance with law.

19. The learned Tribunal, despite the absence of proof, has drawn an adverse inference against the insured and recorded a finding of breach of policy conditions. Such an approach runs contrary to the settled principles laid down by the Hon'ble Supreme Court and cannot be countenanced.

20. In these circumstances, the finding of the learned Tribunal holding that there was a violation of the terms and conditions of the insurance policy is liable to be set aside and is accordingly set aside. Consequently, the respondent No.2–insurance company cannot be absolved of its liability and is held liable to satisfy the award and pay the compensation to the claimant.

21. In view of the foregoing discussion, the present appeal is ***allowed***.

22. The statutory amount of Rs.25000/- deposited by the appellant at the time of admission of the appeal, is ordered to be refunded to it.

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

April 28th, 2026 **(SUDEEPTI SHARMA)**
Ayub/Sahil **JUDGE**

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