



FAO-7191-2017 (O&M)

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

FAO-7191-2017 (O&M)

Iffco Tokio General Insurance Co. Ltd.

.....Appellant

vs.

Rakshi Minor Through his natural guardian & ors.

.....Respondents

Date of Reserve: 11.02.2026

Date of Pronouncement: 13.02.2026

Uploaded on:- 16.02.2026

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. Sachin Ohri, Advocate
for the appellant.

Mr. Ashish Gupta, Advocate
for respondent No. 2.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Insurance Company against the award dated 12.05.2017 passed by the learned Motor Accident Claims Tribunal, Karnal in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Tribunal') on the ground that the liability to pay compensation to the tune of Rs. 2,53,200/- has been wrongly fixed upon the Insurance Company.

FACTS NOT IN DISPUTE

2. Brief facts of the case are that on 30.4.2015 Rakshit (minor) along with his father and cousin namely Sagar was going to Karna Lake, Karnal, for excursion on motorcycle bearing registration No.HR-05W-8946 being driven by his father, whereas he along with his cousin was travelling as pillion riders. At about 2:15

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p.m., when they reached G.T. Road and were approaching towards old road of Karna Lake, Karnal, in the meantime offending vehicle being driven by respondent No.1 in rash and negligent manner came from Chandigarh side and while moving on the wrong side hit against motorcycle, as a result of which, occupants of motorcycle fell on the road and sustained injuries on their persons. Even though father and cousin of injured-petitioner had sustained minor injuries, whereas injured-petitioner had sustained grievous head injury. After causing accident, respondent No.1 stopped the offending vehicle but after some time he fled away towards Karnal side. Immediately after the accident, Rakshit (minor) was taken to Civil Hospital, Karnal, where he was medico-legally examined and thereafter on the same day he was referred to Arvind Hospital, Karnal, where he remained admitted till 27.5.2015 and his treatment as outdoor patient is still continuing from above said hospital. As accident had taken place due to sole rash and negligent driving of offending vehicle by respondent No.1. thus, on these allegations, FIR No. 263 dated 2.5.2015, under Sections 279 and 337 IPC was registered in Police Station, Sadar Karnal.

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 of vehicle (canter) No.HR-45B-0176 by respondent No.1 Vikram, resulting in the injuries to minor Rakshit?OPP

2. Whether the claimant is entitled compensation. If so, how much and from whom? OPP

3. Whether the offending vehicle was being driven in violation of terms and conditions of Insurance Policy. If so, its effect?OPR-3

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5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the appellant-Insurance Company was held liable to pay the compensation. Hence, the present appeal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

6. Learned counsel for the appellant–Insurance Company contends that the learned Tribunal has committed error in fastening liability upon the Insurance Company to pay compensation. He further contends that the driver was not holding valid driving license at the time of accident. Therefore, the Insurance Company cannot be held liable to indemnify the insured or to satisfy the award. He, therefore prays that the present appeal be allowed.

7. Per contra, learned counsel appearing for respondent No. 2 argues on the lines of the award and prays that the present appeal be dismissed.

8. I have heard learned counsel for the parties and perused the whole records of the case.

9. Before proceeding further, it is relevant to reproduce the relevant portion of the award, which reads as under:-

“Issues No.1 to 3:

11. I am taking up these issues together as these issues are inter-connected.

12. PW-1 Gopal Krishan alias Gopal Sharma, father of minor injured-petitioner, being author of FIR as well as eye-witness of the accident in question, gave eye-account having tendered his duly sworn affidavit (Ex.PW-1/A) stated that on 30.4.2015 he along with his son (injured-petitioner) and Sagar was going to Karna Lake, Karnal, for excursion on motorcycle bearing registration No.HR-05W-8946 being driven by him, whereas injured-petitioner and Sagar were travelling as pillion riders. He further stated that at about 2:15 p.m., when they reached

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G.T. Road and were approaching towards old road of Karna Lake, Karnal, in the meantime offending vehicle being driven by respondent No.1 in rash and negligent manner came from Chandigarh side and while moving on the wrong side hit against his motorcycle, as a result of which, he along with other occupants of motorcycle fell on the road and sustained injuries on their persons. He further stated that even though he as well as Sagar had sustained minor injuries, whereas injured-petitioner had sustained grievous head injury. He further stated that after causing accident, respondent No.1 driver of offending vehicle, stopped the offending vehicle but after sometime he fled away from the spot of accident. He further stated that immediately after the accident, injured-petitioner was taken to Civil Hospital, Karnal, where he was medico- legally examined and thereafter on the same day injured-petitioner was referred to Arvind Hospital, Karnal, wherein he remained admitted till 27.5.2015 and his treatment as outdoor patient is still continuing from above said hospital. He further stated that as accident had taken place due to sole rash and negligent driving of offending vehicle by respondent No.1, thus, FIR No. 263 dated 2.5.2015, under Sections 279 and 337 IPC was registered in Police Station, Sadar Karnal. He further stated that prior to accident, injured-petitioner was studying in 5th standard and he has already incurred a sum of ₹4,00,000/- on his treatment.

13. *PW-2 Dr. Vineet Bhai, Neuro Surgeon, Arvind Hospital, Karnal, has stated that patient Rakshit aged nine years, male, son of Shri Gopal Krishan resident of Uchana, District Karnal, came to his hospital on 30.4.2015 with alleged history of road side accident and on examination, patient was unconscious with G.C.S. (Glasgow Coma Scale) E-1, V-1, M-5, pupils bilateral construction with bilateral extensor response with history of right ear bleed and seizures and N.C.C.T.- brain showed depressed fracture of right parietal lobe. He further stated that patient was managed conservatively for the above said injuries and he was discharged on 27.5.2015. He further stated that a sum of 1,35,000/- was charged for treatment of above said patient and to this effect bill (Ex.P-2) and receipt (Ex.P-3) were issued. He further stated that bills (Ex.P-4 to Ex.P-14) were issued by him and*

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the amounts of said bills were charged by him. He further stated that medicines, as mentioned in bills/receipts (Ex.P-15 to Ex.P-41), were prescribed by him. Above said witness has proved treatment record (Ex.P-1) of patient Rakshit.

14. *To rebut the claim of petitioner, respondent No.3 - insurer, has examined RW-1 Shri Salinder Kumar Bhuckal, Advocate, who having tendered his duly sworn affidavit (Ex.RW-1/A), stated that he was deputed as Investigator by respondent No.3 insurance company. He further stated that he had moved application for supply of details/particulars of driving licence of Vikram son of Kashmiri resident of Village Dadupur Khurd, District Karnal (Haryana) from District Transport Officer, Zunheboto, Nagaland, under Right to Information Act and in terms of which, D.T.O.-cum-Public Information Officer, Zunheboto, Nagaland, vide letter dated 1.9.2015 gave remarks "as per office record, this particular driving licence No. 62638/TV/Z/2010 has not been converted to Smart Card (Sarathi Application) and for further information, as per notification order of Transport Commissioner, Nagaland, any driving licence other than smart card shall be treated as cancelled and invalid. He further stated that since driving licence of respondent No.1 Vikram has not been issued on Smart Card Format, therefore, said driving licence should be treated as cancelled.*

15. *To substantiate these issues, learned counsel for the petitioner has argued that on account of negligent driving of offending vehicle by respondent No.1, accident was caused, wherein petitioner had sustained grievous head injury, thus, petitioner is well entitled to get compensation from respondents being driver, owner (insured) and insurer of offending vehicle.*

16. *On the other hand, learned counsel for appearing respondents have argued that since no such accident, as alleged, had taken place with the involvement of offending vehicle, no liability could be fastened upon the respondents to pay any compensation to the petitioner. They further urged that even otherwise, motorcyclist himself was at fault in the cause of accident as motorcycle in question was being driven having three occupants and further there was inordinate delay of two days in lodging the FIR. Learned counsel for respondent No.3 - insurance company has*

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further urged that respondent No.1 was not holding a valid and effective driving licence at the time of accident in question and since offending vehicle was being driven in violation of terms and conditions of insurance policy, thus, instant petition being devoid of merits, is liable to be dismissed.

17. While having due regard to the contentions of learned counsel for respective parties, a perusal of testimonies of PW-1 Gopal Krishan alias Gopal Sharma and PW-2 Dr. Vineet Bhai, coupled with documentary evidence, as led on the record, it is observed that petitioner has come to the Court with categorical stand that on 30.4.2015 he along with his father (PW-1 Gopal Krishan alias Gopal Sharma) and cousin namely Sagar was going to Karna Lake, Karnal, for excursion on motorcycle bearing registration No.HR-05W-8946 being driven by his father, whereas he along with his cousin was travelling as pillion riders. At about 2:15 p.m., when they reached G.T. Road and were approaching towards old road of Karna Lake, Karnal, in the meantime offending vehicle being driven by respondent No.1 in rash and negligent manner came from Chandigarh side and while moving on the wrong side hit against motorcycle, as a result of which, occupants of motorcycle fell on the road and sustained injuries on their persons. Even though father and cousin of injured-petitioner had sustained minor injuries, whereas injured-petitioner had sustained grievous head injury. After causing accident, respondent No.1 stopped the offending vehicle but after some time he fled away towards Karnal side. Immediately after the accident, petitioner was taken to Civil Hospital, Karnal, where he was medico-legally examined, vide medico-legal report Ex.P-43. On the same day, injured-petitioner was referred to Arvind Hospital, Karnal, where he remained admitted till 27.5.2015. A bare perusal of testimony of PW-2 Dr. Vineet Bhai coupled with treatment record (Ex.P-1) of injured-petitioner reveals that N.C.C.T. brain showed depressed fracture of left parietal bone with displacement of about 4 mm and for the treatment of said injury, he (injured-petitioner) was managed conservatively and was discharged on 27.5.2015. As accident had taken place due to sole rash and negligent driving of offending vehicle by respondent No.1, thus, FIR No.263

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dated 2.5.2015 under Sections 279 and 337 IPC was registered in Police Station Sadar Karnal. It is pertinent to mention here that in the above said FIR, respondent No.1 Vikram was arrayed as accused and challaned by the police regarding the accident in question. Petitioner has proved on record certified copies of final police report under Section 173 Cr.P.C. (Ex.P-42) and FIR (Ex.P-44). It is relevant to point out here that despite availing requisite opportunities, respondents have failed to examine respondent No.1 Vikram, driver of offending vehicle. Since respondents No.1 to 3 have categorically denied the negligence of respondent No.1 in the cause of accident while driving offending vehicle, they were duty bound to examine the driver to establish that there was no rash and negligent act of the driver in the cause of accident. No reason has been assigned by the respondents for non-examination of driver of offending vehicle. In accident cases, it is absolutely necessary to have the first hand report from the driver. It may be that the driver does not always speak the truth, but the driver's version is the one which is to be given the best consideration. He also knows as to what actually happened. Therefore, the driver having not been examined, necessarily an adverse inference arises against him. To this effect, reliance can be placed on ruling "Raju and others Versus Sukhvinder Singh and others" 2006(4) RCR (Civil) 82 (P&H). It is pertinent to mention here that no doubt, two pillion riders were travelling on motorcycle being driven by Gopal Krishan alias Gopal Sharma (PW-1), but that circumstance may attract guilt of traffic offence on the part of motorcyclist but by no stretch of imagination, said circumstance would make any inference regarding negligence as contributory by the only fact that three persons were going on a motorcycle. To this effect, reliance can also be placed on ruling "Karnail Singh and others Versus Balwinder Singh and another" VOL. CLXIX -(2013-1) The Punjab Law Reporter 774 (P&H). Regarding contention of learned counsel for respondents that there was delay of about two days in registration of FIR and petitioner has failed to explain the reasons for the said inordinate delay, it is observed that the purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR

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*certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases of delay for delayed lodging of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons. To this effect, reliance can also be placed on ruling "**Ravi Versus Badrinarayan and others**" 2011(2) RCR (Civil) 190 (Supreme Court). Keeping in view ratio decidendi of above said ruling and in a given set of facts, once it has come on record that immediately after the accident, injured-petitioner was shifted to KCGMC Hospital, Karnal, where he was medico-legally examined. vide medico-legal report Ex.P-43 and on the same day, he was shifted to Arvind Hospital, Karnal, where he remained admitted till 27.5.2015. Further, a bare perusal of contents of final police report under Section 173 Cr.P.C. (Ex.P-42) clearly reveals that even though ruqqa in respect of admittance of injured Rakshit in Arvind Hospital, Karnal, was received by police on 30.4.2015 itself, but as injured -Rakshit was unfit to make statement on account of injuries sustained in the accident, thus, after having recorded statement of his father Gopal Krishan alias Gopal Sharma, FIR (Ex.P-44) was registered on 2.5.2015 and, thus, delay caused in the lodging of FIR has been well explained. In a given set of facts, once it has come on the record that in case FIR No.263 dated 2.5.2015, as detailed above, respondent No.1 Vikram has been arrayed as accused and challaned by police in the cause of accident and the fact that PW-1 Gopal Krishan alias Gopal Sharma, who actually witnessed the accident, has narrated in detail the cause of accident, thus, in terms of unrebutted evidence as led on the record at the instance of petitioner, it can be conveniently held that accident had occurred due to negligent driving of offending*

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vehicle by respondent No.1 -Vikram, wherein Rakshit (petitioner) had sustained grievous head injury.

18. Regarding aspect of controversy as to how much compensation is to be awarded in favour of petitioner, in order to determine the amount of compensation, learned counsel for the petitioner has relied upon ruling "*R.D. Hattangadi Versus M/s. Pest Control (India) Pvt. Ltd.*" 1995 (2) P.L.R. 298, wherein, it was held that whenever a Tribunal or Court is required to fix the amount of compensation in cases of accident, it involves some guess work, some hypothetical consideration, some amount of sympathy, linked with the nature of the disability caused. Similar were the findings made in case "*Harbans Singh Versus Joginder Singh*" 1999 (3) R.C.R. (Civil) 52 (P & H).

19. In ***R.D. Hattangadi's case (supra)*** the Hon'ble Supreme Court observed thus:-

"Broadly speaking while fixing an amount of compensation payable to a victim of an accident, the damages have to be assessed separately, as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which is capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimants:

- (I) medical attendance;
- (ii) loss of earning of profit upto the date of trial;
- (iii) other material loss.

So far non-pecuniary damages are concerned they may include:

- (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in future;
- (ii) damages to compensate for the loss of amenities of life which may include a variety of matter, i.e. on account of injury the claimant may not be able to work, run or sit;
- (iii) damages for the loss of expectation of life, i.e. on account of injury the normal longevity of the person concerned is

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shortened, disappointment, frustration and mental stress in life."

*20. In the accident in question, in terms of treatment record (Ex.P-1) of patient Rakshit prepared by Arvind Hospital, Karnal, injured-petitioner had sustained depressed fracture of left parietal bone with displacement of about 4 mm. Further, in terms of above said treatment record coupled with testimony of PW-2 Dr. Vineet Bhai, Neuro Surgeon, it is quite evident that injured-petitioner Rakshit was admitted in Arvind Hospital, Karnal, on 30.4.2015 with alleged history of road side accident and on examination, patient was unconscious with G.C.S. (Glasgow Coma Scale) E-1, V-1, M-5, pupils bilateral constriction with bilateral extensor response with history of right ear bleed and seizures and N.C.C.T. - brain showed of right parietal bone with depressed fracture displacement of about 4 mm. Petitioner Rakshit was managed conservatively for the treatment of above said injuries and was discharged on 27.5.2015. Since petitioner was student of 5th standard at the time of accident in question, in this scenario, question of his earning at that time does not arise. No doubt, there is no loss of income but a fact cannot be lost the sight that injured-petitioner Rakshit aged about nine years at the relevant time was studying in 5th standard and on account of grievous head injury sustained in the accident, his studies must have been adversely affected and to recoup said aspect, injured-petitioner is entitled to get compensation of Rs.25,000/-. However, on account of treatment of grievous head injury sustained in the accident, petitioner Rakshit took treatment from Arvind Hospital, Karnal, where he remained admitted w.e.f. 30.4.2015 to 27.5.2015 and, thus, on account of prolonged treatment, admittance in hospital and purchase of medicines etc., a sum of 1,83,101/- has already been incurred on the treatment of minor petitioner Rakshit, as the same is evident from medical receipts/bills (Ex.P-2, Ex.P-4 to Ex.P-41), Document (Ex.P-3) is the receipt of the bill Ex.P-2, whereas cash memo (Ex.P-41) though depicts the total amount of *8,351/- but on calculation, said amount comes to *5,351/-. Thus, petitioner is entitled to get reimbursement of ₹1,83,101/- as compensation, which amount has already been incurred on his treatment. During the course of*

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treatment, which remained prolonged one, petitioner must have taken special diet as he remained on follow-up treatment for at least three months, thus, he is entitled to get compensation of ₹7,500/- on that count. Since petitioner is resident of Village Uchana District Karnal, and he took treatment from Arvind Hospital, Karnal, thus, he must have incurred expenditure on conveyance, in this view of the matter, he is entitled to get compensation of 5,000/- in respect of conveyance charges. As petitioner had sustained grievous head injury i.e. depressed fracture of left parietal bone and especially in view of the fact that he had taken treatment from Arvind Hospital, Karnal, which is situated at a considerable distance from place of his residence, thus, he must have taken the services of attendant for at least three months, in this scenario, he is entitled to get compensation of ₹7,500/- on that count. Besides that, on account of mental and physical shock, pain and sufferings and loss of enjoyment of life and especially in view of the fact that petitioner has sustained depressed fracture of right parietal bone, in this view of the matter, petitioner is entitled to get compensation amounting to ₹25,000/-. In this manner, total compensation in respect of petitioner Rakshit, works out to be 2,53,101/- rounded off to ₹2,53,200/-.

Regarding the matter in controversy, as to whether respondent No.1 Vikram was having valid and effective driving licence at the time of accident or not, it is observed that accident in question, took place on 30.4.2015. A perusal of photo copy of driving licence (Ex.RW-1/E) of respondent No.1 - Vikram, issued by District Transport Officer, Zunheboto (Nagaland), as placed on record at the instance of respondent No.3, insurer, reveals that said driving licence meant for driving MC, LMV, LTV and HTV was issued on 3.8.2010 having its validity upto 2.8.2016. Though, learned counsel for respondent No.3-insurer, while referring to the statement of RW-1 Shri Salinder Kumar Bhuckal, Advocate, and pressing into service application seeking information under Right to Information Act (Ex.RW-1/B), verification report of driving licence No.62638/TV/Z/2010 (Ex.RW-1/AA) and office memorandum dated 12.1.2015 (Ex.RW-1/D), has urged that since respondent No.1 - Vikram did not get converted driving licence (Ex.RW-

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1/E) into Smart Card (Sarathi Application), in view of "public information" issued by Transport Commissioner, Government of Nagaland, Motor Vehicles Department, Office of Transport Commissioner, Kohima 797001, Nagaland, vide letter No.TC-23/MV/2007 (PT-I) dated 1st August, 2014, above said driving licence shall be treated as cancelled and in this scenario, respondent No.1 Vikram was not holding a valid and effective driving licence at the time of accident in question. It would not be out of place to mention here that respondent No.3, insurer, has failed to discharge its onus by leading cogent and convincing evidence. It is relevant to point out here that RW-1 Shri Salinder Kumar Bhuckal, Advocate, has failed to place on record any documentary proof by virtue of which he was assigned the job of investigator by respondent No.3, insurer. During cross-examination, RW-1 Shri Salinder Kumar Bhuckal, Advocate, has categorically stated that there is no authority letter regarding his appointment as investigator by respondent No.3 insurance company. Above said witness has specifically stated that he did not visit office of R.T.O./D.T.O. Zunheboto (Nagaland). RW-1 Shri Salinder Kumar Bhuckal, Advocate, has categorically stated that in terms of document (Ex.RW-1/AA), nothing has been mentioned therein regarding cancellation of driving licence of respondent No.1 Vikram. Even otherwise, application dated 1.9.2015 seeking information under Right to Information Act, 2005 (Ex.RW-1/B), appears to have been moved by Shri Salinder Kumar Bhuckal, Advocate, on his own, as there is no iota of word in the said application that he being investigator of respondent No.3, insurer, had moved said application. Even otherwise, verification report of driving licence (Ex.RW-1/AA), was not obtained by respondent No.3, insurer, with the intervention of this Tribunal. Even if, it is assumed that verification report of driving licence (Ex. RW-1/AA) is a public document, it was required to be proved in accordance with the provisions of Indian Evidence Act. No witness was summoned from the office of District Transport Officer, Zunheboto (Nagaland) to prove above said report. Nobody identified signature of the concerned officer on so called verification report (Ex.RW-1/AA). RW-1 Shri Salinder Kumar Bhuckal, Advocate, has merely stated that he had sought

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information (Ex.RW-1/AA) under Right to Information Act. However, this was not sufficient to prove the report. To this effect, reliance can be placed on rulings "Smt. Mahu and others Versus Shri Kuldeep and others" Vol. (2013-1) The Punjab Law Reporter 6 (Delhi CLXIX High Court) and "M/s The New India Assurance Company Limited Versus Sunita Rani and others" Vol. CLXXII (2013-4) The Punjab Law Reporter 333 (Punjab and Haryana High Court). In this scenario, once it was obligatory on the part of respondent No.3, insurer, to get the authenticity of driving licence (Ex.RW-1/E) of respondent No.1 - Vikram verified from the quarter concerned by leading cogent evidence but failure on its part to adopt said course, onus, therefore, appears to have not been discharged in this case by the insurance company (respondent No.3). Once no sincere efforts have been made at the instance of respondent No.3. insurer, to get the genuineness or otherwise of driving licence (Ex.RW-1/E) verified from the authorities concerned of Nagaland, in this scenario, it would not be justified to hold that driving licence (Ex.RW-1/E) was not valid and effective one. It is pertinent to mention here that in terms of driving licence (Ex.RW-1/E), respondent No.1 Vikram, driver of offending vehicle, was authorized to drive MC, LMV. LTV and HTV and the said driving licence was issued on 3.8.2010 having its validity upto 2.8.2016. In this view of the matter, respondent No.1 Vikram was having valid and effective driving licence to drive the offending vehicle at the time of accident in question and, thus, there was no violation of terms and conditions of insurance policy by respondent No.2 (insured).

22. Regarding matter in controversy, who is liable to pay above said compensation, it is held that accident took place on account of negligent driving of offending vehicle, the said vehicle at the relevant time i.e. on 30.4.2015 was being driven by respondent No.1- Vikram, said vehicle was owned (insured) by respondent No.2 Mohan Enterprises, sole proprietorship concern of Rajesh Grover, in terms of certificate of registration (Ex.R-1) and further offending vehicle was got insured by respondent No.2 Mohan Enterprises, sole proprietorship concern of Rajesh Grover, with respondent No.3 IFFCO-TOKIO General Insurance Company, vide insurance policy (Ex.RW-1/F), thus,

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respondents No.1 to 3 are jointly and severally liable to pay the compensation to the petitioner.

23. Keeping in view above said findings, issue No.1 is decided in favour of petitioner and against the respondents to the effect that motor vehicular accident dated 30.4.2015 was an outcome of rash and negligent driving of offending vehicle by respondent No.1 - Vikram resulting in the injuries to petitioner. Issue No.2 is decided in favour of petitioner and against the respondents to the effect petitioner is entitled to get compensation amounting to ₹2,53,200/-, whereas respondents No.1 to 3 are jointly and severally liable to pay compensation to the petitioner. Issue No.3 is decided against respondent No.3, insurer, and in favour of respondents No.1 and 2 to the effect that respondent No.1, driver of offending vehicle, was having valid and effective driving licence to drive the offending vehicle at the time of accident in question and, thus, there was no violation of terms and conditions of insurance policy by respondent No. 2 (insured).

10. The challenge laid by the appellant–Insurance Company to the finding of the learned Tribunal regarding the validity of the driving licence is devoid of merit.

11. The record reveals that the driving licence (Ex.RW-1/E) issued by the District Transport Officer, Zunheboto (Nagaland), authorised respondent No.1 to drive MC, LMV, LTV and HTV and was valid from 03.08.2010 to 02.08.2016. The accident having occurred on 30.04.2015, the licence was subsisting on the date of the accident.

12. The appellant-Insurance Company attempted to contend that the licence stood cancelled for non-conversion into a Smart Card on the basis of certain documents obtained under the Right to Information Act. However, the said documents were not proved in accordance with law. No official from the concerned

Transport Authority was examined to authenticate the alleged verification report,



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nor was any evidence led to establish actual cancellation of the licence. Even the witness examined by the appellant-Insurance Company admitted absence of any authority letter appointing him as investigator and conceded that the verification report did not mention cancellation of the licence.

13. It is settled law that the burden to prove breach of policy conditions squarely lies upon the insurer. In the absence of cogent and admissible evidence establishing invalidity or cancellation of the driving licence, the appellant-Insurance Company cannot avoid its liability.

14. The learned Tribunal, therefore, rightly concluded that respondent No.1 was holding a valid and effective driving licence at the time of the accident and that there was no violation of the terms and conditions of the insurance policy.

15. No illegality or perversity is found in the said finding warranting interference. The same is accordingly upheld.

16. In view of the above, the present appeal being devoid of any merits, is dismissed.

17. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

13.02.2026

Gaurav Arora

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