2026:PHHC:046518

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RA-CR-12-CII-2017 in FAO-4189-2013
Date of Decision: March 24, 2026

New India Assurance Company Ltd.

...Appellant

Versus

Darshana Devi and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.V.D.Sharma, Advocate
for the applicant-respondent No.6.

Mr.R.C.Kapoor, Advocate
for the appellant.

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ARCHANA PURI, J.

This is an application filed under Order 47 Rule 1, Section 114 read with Section 151 CPC, for review of the order dated 17.07.2014 passed in the main appeal.

Before adverting to the contents of the review application, it is essential to note factual background of the case, which is herein given:-

That, initially, two claim petitions bearing No.MACT-57 and 59-20.10.2011 were filed by two injured, Ritu and Smt.Darshana Devi. Besides the same, third claim petition bearing No.MACT-58-20.10.2011 was filed by Smt.Darshana Devi and others, for seeking compensation, on account of death of Sushil Kumar, in a motor vehicular accident, which took place on

11.05.2011. All the three claim petitions were consolidated by the Tribunal and evidence was recorded in the claim petition titled 'Ritu vs. Balwinder Singh and others'. The pleadings were completed and following issues were framed:-

> *"1. Whether the accident in question took place due to rash and negligent driving of truck/tanker no.HR-38-A9495 by respondent no.1 in which Sushil has lost his life and petitioner Ritu and Darshana Devi has suffered multiple injuries, as alleged in the petitions?OPP.*
>
> *2. If issue no.1 is proved in affirmative, what amount of compensation the petitioners are entitled to and from whom?OPP*
>
> *3. Whether respondent No.1 was not holding a valid and effective driving licence at the time of accident?OPR-2*
>
> *4. Relief.*

After adducing of evidence, on the aforesaid issues, vide Award dated 24.01.2013, all the three claim petitions were allowed and learned Tribunal had also held respondents No.1, 2 and 3 being, driver, registered owner and insurer of the offending vehicle, to be liable, jointly and severally, to pay the assessed compensation.

Being aggrieved, the insurance company had filed three appeals bearing Nos.FAO-4188, 4189 and 4190 of 2013, to assail the question of liability, fastened upon the insurance company. All the three appeals were taken up together by the Coordinate Bench and vide judgment dated

17.07.2014, all the appeals were allowed and in paragraph No.3, it was observed as herein given:-

> *"Vide order dated 5.12.2012 the Tribunal has directed respondent No.2-driver-Balwinder Singh to produce the original copy of licence Ex.R1 on record who has submitted illegible copy on record. However, from the subsequent order it is not clear whether the original licence was placed on record or not. This Court has perused the entire case record wherein, there is no reference of having supplied the original driving licence by respondent No.2. In the absence of the original licence this Court feels that the learned Tribunal erred in relying upon the illegible copy of the driving licence. The Tribunal ought to have taken an adverse view for not complying with the order dated 5.12.2012. As the driving licence Ex.R1 pertains to LTV whereas, the vehicle involved in the alleged accident is truck, which is a heavy goods vehicle. Thus there is violation of the Motor Vehicles Act and the terms and conditions of the insurance policy."*

On the basis of the above findings, the impugned Award was modified to the extent that insurance company shall have the recovery rights qua the owner and/or driver.

Being aggrieved, owner of the offending vehicle, namely Krishan Lal had approached the Hon'ble Supreme Court and vide order dated 02.01.2017, copy whereof is Annexure R-6/2, the Hon'ble Supreme Court had passed the following order:-

> *"Learned counsel for the petitioner seeks leave to withdraw this Petition. Permission granted. Consequently the Special Leave Petition is dismissed as withdrawn. However*

> *liberty is granted to file a Review before the High Court and if aggrieved by the Order of the High Court in Review, Petitioner can come before this Court".*

Upon this, review application was filed by the owner of the offending vehicle before the Coordinate Bench and the same was dismissed vide order dated 13.02.2017. Again, after dismissal of the review application, the owner of the offending vehicle had approached the Hon'ble Supreme Court by filing SLP No.16029-2017 and thereon, the Hon'ble Supreme Court had passed the following order on 03.07.2017:-

> *"We find from the averments on the record that license in question was duly produced. In this view of the matter, we are of the view that petitioner ought to be given an opportunity to present his case in this regard.*
>
> *Accordingly, the review petition filed before the High Court will stand restored.*
>
> *Since this order being passed ex-parte, it will be open to the respondents to approach this Court, if aggrieved.*
>
> *The special leave petition is disposed of in above terms.*
>
> *Pending applications, if any, also stand disposed of."*

Thereupon, again the owner approached this Court and this is how, the matter was put up before this Court, to consider the review application.

At this juncture, it is pertinent to mention that learned Tribunal, in the impugned Award had observed that the insurance policy Ex.R4, which is coming on record, qua the offending vehicle and the same is valid for the period 10.11.2010 to 09.11.2011, in the name of the owner i.e. Krishan Lal. It was also observed by the Tribunal that the copy of the driving licence of

Balwinder Singh-respondent No.1 is Ex.R1, which is not fully legible and therefore, it was also observed that no evidence was adduced, on behalf of the insurance company, that the owner i.e. respondent No.2, has violated any terms and conditions of the insurance policy or the driving licence of respondent No.1 is forged and fabricated and thereupon, it was observed that the insurance company shall continue to remain liable to respondent No.2 to indemnify him.

It was in this context, that the liability of the respondents in the capacity of being driver, registered owner and insurer, was held to be joint and several.

However, the Coordinate Bench, in the review application, filed at first instance, had dismissed the same, vide order dated 13.02.2017, wherein, it was observed by the Coordinate Bench that the evidence was withheld by the owner and even, the driving licence was sought to be placed on record, without there being an application for additional evidence and thus, no case is made out for review in the matter. Thereupon, again the owner had approached the Hon'ble Supreme Court and it was observed by the Hon'ble Supreme Court that the petitioner i.e. owner, ought to be given an opportunity to present his case, in this regard.

In the meanwhile, the original driving licence of the Balwinder Singh was placed on record. Even, the insurance company had brought on record the verification report of driving licence of Balwinder Singh s/o Bakshish Singh, copy whereof is Mark-A. The said report is annexed with the verification/opinion given by the surveyor and loss assessor of the insurance company. In this backdrop, the review application was required to be appraised again.

Anyhow, the owner had also filed an application for additional evidence, to be led vis-a-vis, the driving licence.

After hearing counsel for the parties, on the application for additional evidence and considering the orders passed by the Hon'ble Supreme Court, on the basis whereof, the review application was to be considered, the application for additional evidence, as such, was allowed by this Court vide order dated 19.09.2025. Thereafter, the case was remitted back to learned Tribunal/Successor Tribunal and a direction was given to the parties to make appearance before concerned Tribunal. Thereupon, learned Tribunal was required to proceed further and summon the record of the driving licence from the concerned DTO, original whereof, had come on record and to provide an opportunity, on issue No.3, to the insurance company to lead evidence, at first instance and thereupon, to provide equal number of opportunities to the owner of the offending vehicle, to lead evidence, in rebuttal and further to furnish report, after hearing both the counsel for the parties.

In consonance with the aforesaid order, the parties had made appearance before the Tribunal. Qua issue No.3, the insurance company had examined Ankush Goyal, working as Assistant Transport Officer, Mansa and his statement was recorded. Thereupon, insurance company had closed the evidence. In rebuttal to the same, respondent No.1-Balwinder Singh, driver, was also examined and thereafter, the evidence was closed.

After hearing the parties, the separate report, with regard to issue No.3, vis-a-vis, the legality and validity of the driving licence of respondent No.1 was made by the Tribunal, taking into consideration the original driving licence, having come on record and also taking into consideration the recitals of the register Ex.C1, about issuance of the driving licence for 'LTV' valid w.e.f. 05.02.2007 to 04.02.2010. Furthermore, the licence was upgraded to 'HTV' vide Sr.No.1547 of the register on 03.04.2008 and the validity thereof, remained upto 04.02.2010.

Apart from the aforesaid, copy of the judgment of the case titled 'State vs. Rajinder Kumar and others' in FIR No.123 dated 26.05.2010, under Sections 7, 13(2) and 88 of PC Act and Sections 420, 465, 467, 468, 471 and 120-B IPC, Police Station City Mansa was also proved as Ex.C3. The witness produced by the insurance company had stated that the aforesaid FIR was registered against the then DTO and others, for making driving licence with wrong address, after receiving the money.

After seeing the original driving licence Ex.R1, this witness also stated that record of the renewal from 29.04.2010 to 04.02.2013 was not available in their office as the register maintained in this respect, containing the entries form Sr.No.801 to 1000, had gone missing and the record was not available. However, the said witness had also stated that though, he is not an expert, yet the signatures of the authority on the driving licence, when it was originally prepared and over the extension from 29.04.2010 to 04.02.2013, appears to be of the same person. He produced the copy of the service book of Rajinder Kumar, which is Ex.C4, which also reflects about this person to be posted as ADTO in February 2007, when driving licence in favour of respondent No.1 had been originally issued and in April 2010, when it was renewed from 29.04.2010 to 04.02.2013.

Considering the aforesaid statement, it was also observed by learned Tribunal that respondent No.1, when stepped into witness box, had categorically stated that he got prepared his licence by visiting the authority. Later on, he got it extended for 'HTV' and he got renewed his driving licence Ex.R1, in the year 2010 and 2013.

After considering the submissions made by both the counsel, learned Tribunal had concluded that respondent No.1-driver of the offending vehicle was having valid and effective driving licence of 'HTV' category, on the date of accident i.e. 11.05.2011 and also, it was observed that the record regarding the preparation of the driving licence of 'LTV' category of respondent No.1 was available with the authority and upgradation record to 'HTV' was also available with that authority. The relevant copies of the registers are Ex.C1 and Ex.C2.

Furthermore, with regard to the renewal from 29.04.2010 to 04.02.2013 was got renewed vide Sr.No.930 and the record of this renewal was not available with the authority. However, it is observed that as per the witness examined, the register containing entries from Sr.No.801 to 1000 and the relevant record thereof was missing. The renewal record of the driving licence of respondent No.1 was at Sr.No.930. It was observed by the Tribunal that the person, who was having valid and effective driving licence, had no need to fabricate any record of entry. If the respondent-insurance company would have proved that at Sr.No. 930, some other person's record was there, then it could be presumed that the renewal entry, in favour of respondent No.1, might be forged. For the loss of the record by the concerned authority, respondent No.1-driver, cannot be blamed or faulted with.

As detailed aforesaid, learned Tribunal had very meticulously appraised the testimony of the witnesses examined by the insurance company as well as testimony of respondent No.1-Balwinder Singh, driver of the offending vehicle. The original driving licence is there on the record. Close perusal of the same reveals about the driving licence, at first instance, having been issued by the Licencing Authority, Mansa, for 'LTV', the validity whereof was w.e.f. 05.02.2007 till 04.02.2010. Relating to the same, the requisite record of issuance of driving licence has been duly proved as Ex.C1. This was further renewed vide entry No.1547 and was upgrade to 'HTV' w.e.f. 19.08.2008 and entry of renewal, as such, has also been duly proved, as observed aforesaid, which is Ex.C2.

The dispute now, is only with regard to the renewal upto 04.02.2013 w.e.f. 29.04.2010. The date of accident is covered by the entry of this renewal. However, it is evident that the requisite record, shows about the missing entries from Sr.No.801 to 1000 and the relevant entry of the driving licence is Sr.No.930 and as such, the record was not available. Even, FIR has been got registered against the concerned DTO.

Considering the same, when the record, as such, is not available, for the loss of the record by the concerned Authority, respondent-

Balwinder Singh, has been correctly held to be 'cannot be blamed or faulted with' as observed by the Tribunal. No evidence, as such, is coming on record, with regard to Sr.No.930, to be relating to issuance of licence or renewal in favour of some other person. That being so, it cannot be said that there was wrong doing, on the part of respondent-Balwinder Singh, who was driver of the offending vehicle.

Considering the evidence in entirety and also, more particularly, about the renewal entries to be bearing stamp of the office of DTO Mansa, learned Tribunal has appropriately returned the finding qua issue No.3, against respondent-insurance company and it was held that on the date of accident i.e. 11.05.2011, respondent No.1-Balwinder Singh was holding a valid and effective driving licence.

Now, while making reference to the review application, it is submitted by learned counsel for the insurance company that three appeals were filed and it is only the orders obtained from Hon'ble Supreme Court in FAO-4189-2013 and thus, it is submitted that the recovery rights granted, as such, had attained finality in other two appeals and therefore, the finding of recovery rights be not disturbed, more particularly, when the order has been obtained from the Hon'ble Supreme Court, in a fraudulent manner, while not disclosing about the review application, so filed.

However, considering the submission aforesaid, a query was put by the Court, as to whether, the insurance company had knocked the door of the Hon'ble Supreme Court, more specifically, with regard to the order dated 02.01.2017 and 13.02.2017 passed by the Hon'ble Supreme Court.

However, counsel submits that the insurance company has not assailed the aforesaid orders. Even, the order dated 19.09.2025 passed by this Court, with regard to the remittance of the case to the Tribunal, to record findings on issue No.3, has also not been assailed by the insurance company.

Not only this, thereafter also, the insurance company had appeared before the Tribunal, in consonance with the aforesaid order and summoned and examined the witness, vis-a-vis, issuance of driving licence. Such being the state of affairs, now it does not lie, on the part of the insurance company, to assert about the recovery rights, as awarded, in the other appeals, to have not been further challenged.

May it be so, but however, that amounts only, at the maximum, to be lapse on the part of the claimants, not to assail the recovery rights and if it be so, it is the loss caused to the relevant claimants and therefore, the same, as such, need not be pondered now, in the appeal in hand, wherein, specific orders had been passed by the Hon'ble Supreme Court, where, it was also observed specifically on 13.02.2017 that they find from the averments on the record that the licence in question was duly produced.

The original licence is coming on record. This, as such, is not disputed by the insurance company. The same stands duly proved in view of the testimony of Ankush Goyal, examined by the insurance company. The findings as recorded by the Tribunal, which have been given after the meticulous appraisal of the entire material brought on record and on account of some missing record, it *ipso facto*, cannot be concluded about the driving licence, which was originally genuine and first entry of renewal was also genuine, that the subsequent entry of renewal, relating to 'HTV' endorsement, is fake one. This has been very correctly appraised and countered by the Tribunal, in its report.

Taking the evidence in entirety, as discussed aforesaid, the findings, as such, on issue No.3, as recorded by learned Tribunal, are hereby affirmed and therefore, the liability of the insurance company together with the driver and insured, is held to be joint and several.

In the light of the aforesaid discussion, the review application is allowed to the aforesaid extent.

March 24, 2026 **(ARCHANA PURI)**
Vgulati **JUDGE**

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