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2026:UHC:10003

HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE SRI JUSTICE SUBHASH UPADHYAY

APPEAL FROM ORDER NO.209 OF 2015

31st October, 2026

Wazeer Ahmad -- Appellant

Versus

The New India Insurance Company Ltd. and Others

...Respondents.

Counsel for the appellant	:	Mr. Rajat Mittal and Mr. Akram Parwez, learned counsel.
Counsel for the respondents	:	Mr. D.C.S. Rawat, learned Senior Counsel assisted by Mr. Harshit Bisht, learned counsel.

JUDGMENT: (per Mr. Subhash Upadhyay, J.)

The appeal under Section 173 of the Motor Vehicle Act, 1988 has been filed by appellant assailing judgment and award dated 11.03.2014 passed by the learned MACT/ District Judge, Dehradun in MACP No.86/2009, "*Smt. Sushma Chauhan Vs. Narendra Kumar and Others*".

2. Learned Tribunal allowed the claim petition and the Insurance Company was directed to pay awarded amount to the claimants. It was further provided that

the Insurance Company would be at liberty to recover the said amount from owner of the vehicle.

3. Perusal of the record reveals that the Insurance Company has paid entire dues to claimant and, as such, the dispute now remains between owner of the vehicle and the Insurance Company.

4. Perusal of the order sheets also reveals that the compulsory statutory deposit made by appellant was also remitted to the learned Tribunal.

5. Appellant has contended that driver of the vehicle was having valid driving license to ply vehicle on the date of the accident, as such, learned Tribunal had erred in considering the said aspect in fixing liability on owner of the vehicle.

6. Per contra, learned counsel for the Insurance Company contended that only a photocopy of the driving license was produced before learned Tribunal and owner of the vehicle or driver of the vehicle had not appeared before learned Tribunal and had not produced the original documents, as such, the directions issued by learned Tribunal to pay and recover cannot be said to be illegal or

arbitrary.

7. Learned counsel for appellant, however, contends that by an application filed under Order 41 Rule 27 CPC read with Section 151 CPC appellant had produced the original license of the driver which is enclosed as Annexure-1 to the said application.

8. Perusal of the said document reveals that though it has been stated in the application filed under Order 41 Rule 27 CPC that original license of the driver is being enclosed with the affidavit, however, in fact, it is the form 54 which is enclosed wherein the details of the driver and the driving license possessed by him have been endorsed which reveals that as per report of the licensing authority of the Motor Vehicle Department, Dehradun driver of the vehicle - Narendra Singh was having a driving license which was issued on 27.08.1999 and was valid till 26.08.2011. However, the fact remains that original driving license has not been enclosed along with application under Order 41 Rule 27 CPC.

9. Learned counsel for respondent/ Insurance Company contends that the fact that driver of the offending vehicle was having valid driving license can be

considered by learned Tribunal and the matter can be remitted back to be decided on the said issue alone. He also refers to an order dated 02.09.2026 passed by a Co-ordinate Bench in AO No.405/2012 wherein, in similar circumstances, the application filed under Order 41 Rule 27 CPC was allowed and the matter was remanded back to the concerned Tribunal to permit the parties to adduce evidence in support of their contentions. Paragraph no.6 to 8 of the said order reads as under:

> *"6. In the connected AO No. 424 of 2012 filed by the Insurance Company, the ground taken is that the driver of the offending vehicle i.e. bus was not having a valid license, but, since the verification report alongwith Form 54 was received by the Insurance Company only after passing of the award by the MACT, as such, that report could not be produced before the Tribunal concerned and they have also moved a report in an application under Order 41 Rule 27 of the CPC for taking it on record.*
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> *7. Heard learned counsel for the parties and perused the record.*
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> *8. Considering the submissions, under the facts and circumstances of the case, both the applications filed under Order 41 Rule 27 CPC in both the Appeals from Orders are allowed and the matter is remanded back to the concerned Tribunal to permit the parties to adduce evidence in support of their contentions and decide the matter expeditiously. It is further made clear that the entire awarded amount has been deposited by the Insurance Company before the concerned Tribunal and vide order dated 09.04.2013, this Court have permitted the claimant to withdraw 50% of the deposited amount. Since, the matter is remanded back, the only controversy to be decided by the Tribunal is, as to whether the Insurance Company would be liable to recover the awarded amount from Transport Corporation or not. As such, in the interest of justice, the claimants are permitted to withdraw the*

amount, as deposited by the Insurance Company."

10. Learned counsel for appellant fairly concedes that original driving license has not been enclosed with the application. However, he submits that form-54 enclosed with the application is the document of the licensing authority of the Motor Vehicle Department, Dehradun and appellant may be permitted to adduce the evidence in support of the contention that driver was having the valid driving license and the Tribunal may be directed to decide the matter expeditiously.

11. Having heard learned counsel for the parties, the application filed under Order 41 Rule 27 CPC is allowed. The matter is remanded back to the concerned Tribunal to permit appellant to adduce evidence in support of his contention. As entire amount has been paid to the claimants, thus, the only controversy, which the Tribunal has to decide, is as to whether the Insurance Company would be liable to recover the awarded amount from appellant or not.

12. Claimants need not be issued any notice after the matter is received by the concerned Tribunal.

13. It is hoped and expected that learned Tribunal shall make every endeavour to decide the case within a period of six months from the date of receipt of a certified copy of this order.

14. As a sequel thereto, the miscellaneous applications, if any pending, shall stand disposed of.

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SUBHASH UPADHYAY, J.

Dt:31.10.2026
Sukhbant