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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO 347/2016**

RELIANCE GENERAL INSURANCE CO LTDAppellant

Through: Mr. A.K. Soni, Advocate

versus

SANGEETA RAWAT & ORSRespondents

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

09.03.2026

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CM APPL. 58730/2024 (seeking substituted service of respondent No.3)

1. In the order dated 29.01.2026 passed by the learned Joint Registrar (Judicial), it is observed that respondent No.3 stands duly served through substituted service by way of publication.

2. In view of the above, the present application is disposed of.

FAO 347/2016

1. Pertinently, on 22.02.2017, this Court observed that no infirmity could be found in the findings returned by the learned Commissioner with respect to the existence of the employer-employee relationship between the deceased and respondent No.3 as well as the quantum of compensation awarded. Accordingly, notice in the appeal was directed to be issued only to respondent No.3 on the limited aspect as to whether the appellant would be entitled to recovery rights against the said respondent.



2. The present appeal is directed against the order dated 22.01.2016 and the rectification order dated 03.05.2016 passed by the learned Commissioner, Employees Compensation, whereby compensation in the sum of Rs. 7,84,485/-, along with interest at 12% per annum with effect from 03.02.2010 till its realization, came to be awarded in favour of respondent Nos. 1 and 2 on account of the death of *Vijay Kumar* in an accident arising out of and in the course of his employment.
3. As per claim application, the deceased *Vijay Kumar* was stated to be employed as a driver on RTV Bus bearing registration No. DL-1V-7788 owned by respondent No. 3. On 03.02.2010, while driving the said vehicle near Deepak Memorial Hospital, *Anand Vihar, Delhi*, the vehicle overturned, resulting in fatal injuries to the deceased.
4. As noted above, the challenge in present appeal is limited. In this regard, it is contended that the driving licence of the deceased was found to be fake upon verification from the concerned Transport Authority and therefore, there was a breach of the terms and conditions of the insurance policy, entitling the appellant to recovery rights against respondent No. 3, the owner of the offending vehicle.
5. In the aforesaid backdrop, the only issue that arises for consideration is whether the appellant/Insurance Company is entitled to recovery rights against respondent No. 3 on account of the driving licence of the deceased allegedly being fake.
6. The legal position governing the issue is well settled. In *National Insurance Co. Ltd. v. Swaran Singh*¹, the Supreme Court held that the mere absence, invalidity, or even falsity of a driving licence would not, by itself,



absolve the insurer of its liability. The insurer must further establish that the insured committed a wilful breach of the policy conditions, inasmuch as the employer failed to exercise reasonable care to ensure that the driver possessed a valid and effective driving licence. The relevant extract is herein below:

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(iii) The breach of policy condition e.g. disqualification of the driver or invalid driving licence of the driver, as contained in sub-section (2)(a)(ii) of Section 149, has to be proved to have been committed by the insured for avoiding liability by the insurer. Mere absence, fake or invalid driving licence or disqualification of the driver for driving at the relevant time, are not in themselves defences available to the insurer against either the insured or the third parties. To avoid its liability towards the insured, the insurer has to prove that the insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the policy regarding use of vehicles by a duly licensed driver or one who was not disqualified to drive at the relevant time.”

7. Tested on the anvil of the aforesaid principle, the appellant has merely asserted that the driving licence of the deceased was found to be fake upon verification from the concerned Transport Authority. However, apart from the said assertion, no material has been placed on record to demonstrate that respondent No. 3 had knowingly employed a person not duly licensed or had failed to undertake reasonable verification of the driving licence of the deceased before permitting him to drive the vehicle.

8. In the absence of any evidence indicative of a conscious or wilful breach on the part of respondent No. 3, the mere fact that the licence was subsequently found to be fake would not, by itself, entitle the appellant to recovery rights against the insured.

¹ (2004) 3 SCC 297



9. Consequently, no ground is made out to grant recovery rights to the appellant against respondent No. 3.
10. This Court otherwise finds no infirmity in the findings returned by the learned Commissioner with respect to the accident having arisen out of and in the course of employment or the quantum of compensation awarded.
11. The appeal, being devoid of merit, is accordingly dismissed.

MANOJ KUMAR OHRI, J

MARCH 9, 2026
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