2026:DHC:5182

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

% ***Reserved on : 20th May 2026***
Pronounced on : 01st July 2026
Uploaded on : 02nd July 2026

\+ **<u>MAC.APP. 1113/2018 & CM APPL. 52406/2018</u>**

UNITED INDIA INSURANCE CO LTD .....Appellant

Through: Mr. Amit Kumar Singh, Advocate and Ms. Rokosienoz Meyase, Advs.

versus

SARJO & ORS .....Respondents

Through: Ms. Aditi Gupta, Ms. Lavanya Bhardwaj, Ms. Anjali Choudhary and Mr. Akashdeep, Advs. for DTC/R-4.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

<u>JUDGMENT</u>

<u>ANISH DAYAL, J.</u>

1. This appeal has been filed by the Insurance Company assailing award dated 04th October 2018 passed the MACT, Rohini Courts in MAC Petition No. 4663/2016, awarding compensation of *Rs.9,22,000/-* along with interest @ 9% per annum in relation to an accident, which occurred on 11th February 2011, where one *Mahavir, a* 48-year-old self-employed individual, lost his life.

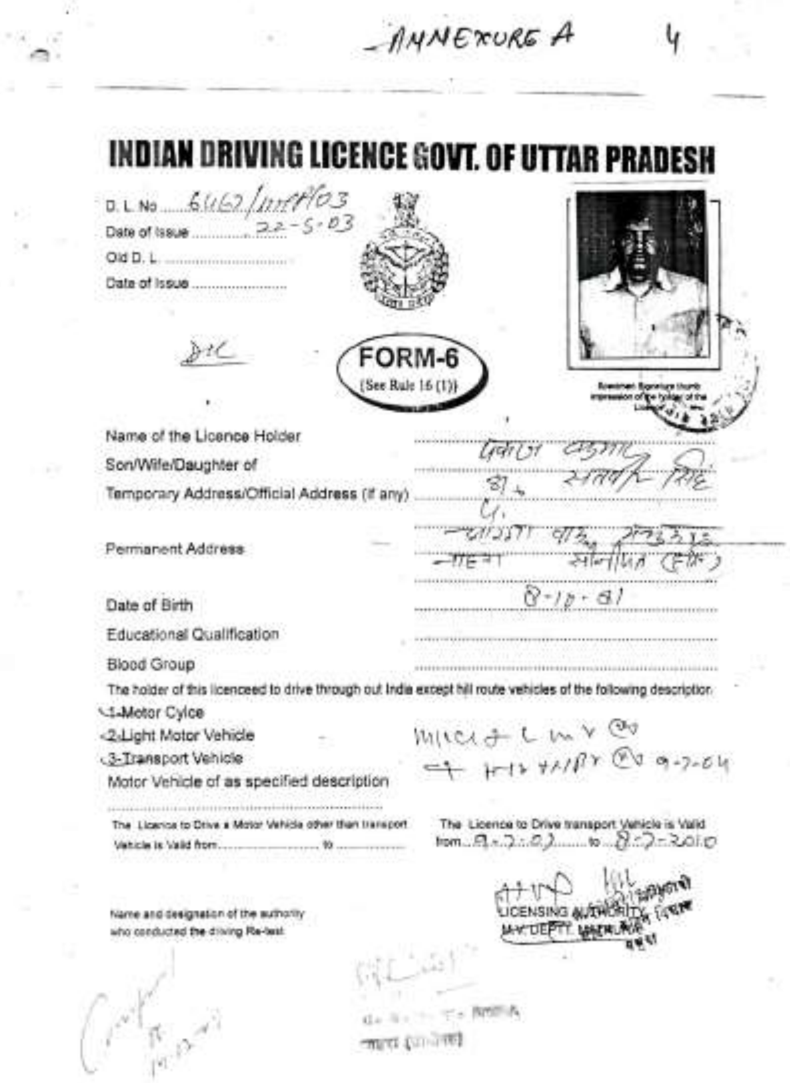
2. *Mr. Amit Kumar Singh*, counsel for the Insurance Company, contended that the MACT, by the impugned award, had directed the Insurance Company to pay the awarded amount despite rendering a

conclusive finding that the driving licence of the driver/respondent no.3 was fake. However, no recovery rights were granted against the owner/respondent no.4, namely the *Delhi Transport Corporation* (**'*DTC*'**), on the premise that the owner had exercised due diligence at the time of employment. The present appeal is confined to challenging only this aspect of the award and seeks grant of recovery rights against respondent no.4.

3. The accident occurred on 11th February 2011 when *Mahavir*, along with *Sanjay* (**PW2**), was proceeding on foot from *Sardar Colony, Sector-16, Rohini to Shahabad Daulatpur*. At about 05:45 p.m., when they reached Bawana Road, the offending vehicle, i.e., DTC bus bearing registration No. DL-1PC-7489, driven by respondent no.3 in an allegedly rash and negligent manner, came from behind and hit *Mahavir*. FIR No. 51/2011 was registered at PS Shahabad Dairy. Mahavir succumbed to his injuries on 14th February 2011. The vehicle was owned by respondent no.4 and was insured with the appellant.

4. On the issue of liability, the MACT considered the Insurance Company's contention that the driving licence was fake in the context of the testimonies of **R3W1**, an officer from the Insurance Company, and **R3W2**, an officer from the Road Transport Authorities (**'*RTO*'**), Mathura, Uttar Pradesh, who stated that the driving licence was issued on 22nd May 2003 in the name of *Prem Anant s/o Mahabir*. DTC argued that the driver was holding a valid and effective driving licence at the time of the accident and that all necessary precautions had been taken at the time of his employment to verify the licence.

5. Before appreciating the submissions of the parties, the facts and testimonies on record, it would be apposite to examine the material relating to the driving licence. The driving licence produced by respondent No. 3/driver is reproduced as under:


ANNEXURE A 4

INDIAN DRIVING LICENCE GOVT. OF UTTAR PRADESH

D. L. No. 6462/[illegible]/03
Date of Issue 22-5-03
Old D. L. ....
Date of Issue ....

FORM-6
(See Rule 16 (1))

Name of the Licence Holder
Son/Wife/Daughter of
Temporary Address/Official Address (if any)
Permanent Address
Date of Birth 8-10-81
Educational Qualification
Blood Group

The holder of this licenceed to drive through out India except hill route vehicles of the following description
1-Motor Cylce
2-Light Motor Vehicle
3-Transport Vehicle
Motor Vehicle of as specified description

The Licence to Drive a Motor Vehicle other than transport Vehicle is Valid from .... to ....

The Licence to Drive transport Vehicle is Valid from 9-7-07 to 8-7-2010

Name and designation of the authority who conducted the driving Re-test

LICENSING AUTHORITY
M.V. DEPTT.

6. The endorsement obtained by the driver from the Road Transport Authorities, Nuh, dated 10th September 2010 and valid up to 09th September 2013, is also reproduced as under:

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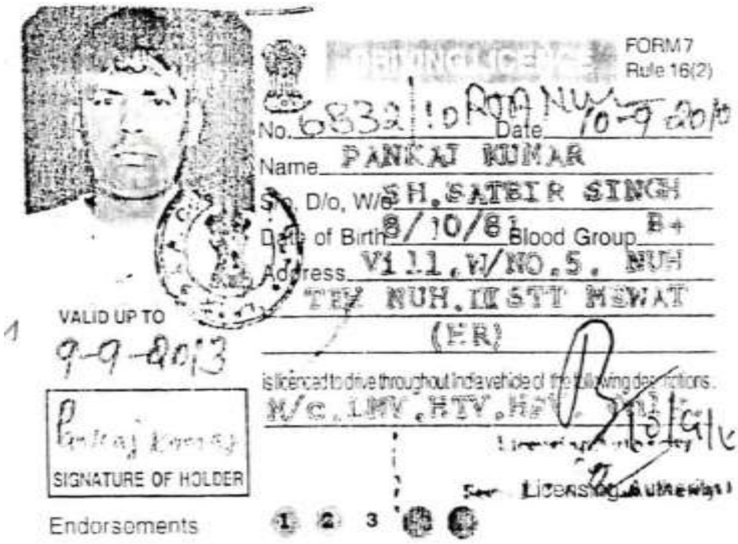
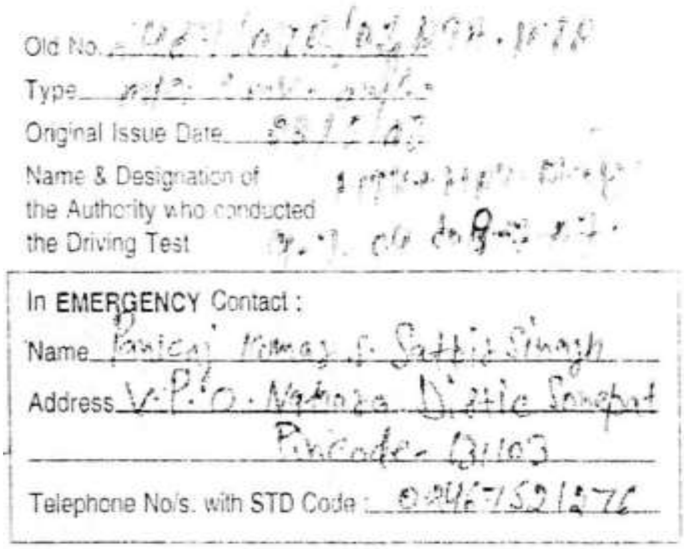

FORM 7
Rule 16(2)
No. 6832/10 RDA NUH Date 10-9-2010
Name PANKAJ KUMAR
S/o, D/o, W/o SH. SATBIR SINGH
Date of Birth 8/10/81 Blood Group B+
Address Vill. W/NO. 5. NUH TEH NUH, DISTT MEWAT (HR)
VALID UP TO 9-9-2013
is licenced to drive throughout India vehicle of the following descriptions.
M/C, LMV, HTV, ...
SIGNATURE OF HOLDER
Licensing Authority
Endorsements 1 2 3 4 5


Old No. ...
Type ...
Original Issue Date ...
Name & Designation of the Authority who conducted the Driving Test
In EMERGENCY Contact :
Name Pankaj Kumar S. Satbir Singh
Address V.P.O. Nahara Distt Sonepat Pincode 131103
Telephone No/s. with STD Code 09467521276

7. **R2W1,** an official from DTC, deposed that, as per the records, *Shri Pankaj Kumar*, Badge No. NRD-024, had been appointed as a driver on a contractual basis with DTC. Agreements dated 20th September 2010 and 20th December 2010 were executed between the driver and DTC. At the time of appointment, the driver produced the original driving licence (as

extracted above), which appeared to be genuine. The witness further stated that DTC conducted a driving test and found the driver competent to drive a bus, pursuant to which he was appointed. Copies of the agreement were also placed on record of the Trial Court as ***Ex.R2W1/1*** and ***Ex.R2W1/2***.

8. In his cross-examination, **R2W1** stated that DTC had not got the particulars of the driving licence verified from the RTO, Mathura, before appointment of respondent no.3/driver and that no driving test report had been filed. He denied the suggestion that DTC had not conducted any driving test.

9. **R3W2**, the Record Clerk from the Transport Authority, Mathura, stated that he had brought the summoned record and that, as per the said record, Driving Licence No. 6467/MTR/03 had been issued in the name of *Sh. Prem Anand*, son of *Sh. Mahabir*. The date of issue was 22^{nd} May 2003, and it was valid up to 21^{st} May 2023.

10. Thereafter, an additional affidavit was filed on behalf of the DTC before this Court, placing on record relevant documents which would throw light on this issue. As per the affidavit, the following points need to be noted:

(i) As per the records of DTC, there is no driving licence endorsed by any authority in Delhi.

(ii) The only document available in DTC records, which was issued by a Delhi authority, is the PSV Badge.

(iii) Guidelines dated 26^{th} March 2010 issued by the DTC Headquarters prescribe the procedure for obtaining a PSV

Badge and for verification of licences from the issuing authority.

(iv) The original driving licence issued by the Mathura Authority was shown to DTC by the driver. It was valid up to 08th July 2010.

(v) For the purpose of contractual employment, DTC conducted a driving test on 20th February 2010, and the driver was declared successful.

(vi) When the driver did not join, a letter dated 24th August 2010 was sent to him, to which he replied stating that he was facing certain difficulties and requested permission to join.

(vii) Subsequently, the driver got the driving licence issued by RTO, Mathura, and endorsed from the authorities at *Nuh, Haryana*; the endorsement was valid from 10th September 2010 till 09th September 2013. According to the DTC guidelines, this endorsement from one State to another was not a matter concerning DTC.

(viii) The driver was issued a PSV Badge by the authorities in Delhi, which was valid from 03rd May 2010 till 03rd August 2010.

(ix) A letter dated 03rd December 2010 was written by DTC to the Mathura Authority seeking verification of the driving licence. However, no response was received; in the meantime, the accident occurred on 11th February 2011. Thereafter, the driver was immediately terminated and blacklisted.

Submissions on behalf of DTC

11. In this context, *Ms. Aditi Gupta*, counsel for DTC, submitted the following:

11.1. At no point of time, either at the stage of recruitment or thereafter, was DTC aware that the driving licence issued from Mathura was fake.

11.2. It is not the case of the appellant that DTC recruited the driver despite having knowledge that the licence was fake or that DTC was informed about the fake licence at any point in time.

11.3. At the time of recruitment, DTC examined the original driving licence and also conducted a driving test.

11.4. There was no clause in the insurance policy mandating DTC to obtain verification of the original driving licence before recruitment.

11.5. DTC had written to the Mathura Authorities on 03rd December 2010 seeking verification, but did not receive any response. The endorsement obtained from the Nuh Authorities was at the behest of the driver himself.

11.6. PSV Badge was issued on 03rd May 2010 to the driver by the State Transport Authority, Delhi, on the basis of the documents, including the driving licence, which were available with him at that time.

11.7. She relied upon the decisions in ***Hind Samachar v. National Insurance Company Ltd***. 2025:INSC;1204, ***Pepsu Road Transport Corporation v. National Insurance Compan***y AIR 2014 SC 305 and

IFFCO Tokio General Insurance Co. Ltd. v. Geeta Devi & Ors. 2023:INSC:954, in support of her contention.

<u>Submissions on behalf of Insurance Company</u>

12. *Mr. Amit Kumar Singh*, counsel appearing on behalf of the Insurance Company, placed the following submissions:

12.1. On the basis of the testimony of **R3W2**, the official from the licensing authority at *Mathura*, it stood established that the licence had not been issued by the said authority, and this finding remains unchallenged.

12.2. It is a settled principle of law that driving a vehicle with a fake licence is equivalent to driving without a licence and constitutes a fundamental breach of the terms and conditions of the insurance policy, particularly the condition envisaged under *Section 149(2)(a)(ii)* of the Motor Vehicles Act. Consequently, the insurer is statutorily entitled to be indemnified.

12.3. In ***New India Assurance Company Ltd. v. Kamla*** (2001) 4 SCC 342, the Supreme Court unequivocally held, in *paragraph 12*, that a fake licence cannot be rendered genuine merely by renewal.

12.4. DTC, being a public undertaking, failed to exercise the higher standard of care and due diligence expected of it. DTC operates a vast fleet of public transport vehicles, employs thousands of drivers, and possesses the necessary administrative and financial wherewithal to conduct proper verification.

12.5. The additional affidavit filed by DTC on 23rd April 2026 reveals a gross dereliction of duty. DTC claims to have sent a letter on 03rd December 2010 to the Mathura Authorities seeking verification, but despite not receiving any response, allowed respondent no.3 to continue driving the bus.

12.6. In ***Delhi Transport Corporation v. United India Insurance Co. Ltd***. MAC.APP. 1081/2016, this Court held that a public transport undertaking is expected to exercise a greater degree of care.

12.7. The decisions of the Supreme Court in ***United India Insurance Co. Ltd. v. Lehru & Ors.*** (2003) 3 SCC 338 and ***National Insurance Co. Ltd. v. Geeta Bhatt & Ors.*** (2008) 12 SCC 426 mandate the grant of recovery rights in cases where breach stands established.

12.8. The Supreme Court in ***National Insurance Co. Ltd. v. Swaran Singh*** (2004) 3 SCC 297, requires '*reasonable care*' to be taken by the employer in verifying the driver's licence. The onus shifts to the insurer only after the owner establishes that such verification was undertaken, as held in ***Pappu v. Vinod Kumar Lamba*** (2018) 3 SCC 208.

12.9. The MACT erred in holding that the Insurance Company had failed to prove a fundamental breach of the terms and conditions of the insurance policy and, consequently, erred in denying recovery rights to the insurer.

Analysis

13. The facts relating to the licence seem to be undisputed. When the driver, *Pankaj Kumar*, applied to the DTC for a job as a driver, he had produced a licence issued by the RTO, Mathura, on 22nd May 2003, valid from 09th July 2007 to 08th July 2010. By the time he joined, he had also obtained an endorsement from Nuh, Haryana, dated 10th September 2010, valid up to 09th September 2013.

14. DTC sent a letter dated 03rd December 2010 to the RTO, Mathura, to verify the licence, but did not receive any response.

15. The DTC conducted a driving test on 20th February 2010 and, upon the driver having succeeded, he was first contracted on 20th September 2010 and thereafter by agreement dated 20th December 2010. The second engagement was to continue till 18th March 2011.

16. The fact that the licence was fake was established by the evidence of **R3W2**, the officer from RTO, Mathura. The licence bearing the number which had been produced by the driver was not even issued in the name of the driver, but in the name of some other person, namely *Prem Anant*, son of *Sh. Mahabir*, with the date of issuance being 22nd May 2003 and having validity up to 21st May 2023.

17. A bare perusal of the licence produced by the driver would show that while the number and the date of issue are the same, the licence is shown to be valid from 09th July 2007 to 08th July 2010. A bare perusal of the licence, as extracted in *paragraph 5* above, would show that when the date of issue was 22nd May 2003, there was no reason why the validity would commence from 09th July 2007, i.e., four years later, till 08th July 2010. A licence, when issued, is usually valid from the *date of issue* for a particular period, usually about 10 years.

18. This aspect was clearly missed by the DTC officials when the licence was presented, which, in the opinion of this Court, amounts to a serious dereliction of duty. DTC is a public organization operating a large fleet of transport vehicles carrying passengers and has an inherent responsibility to verify and cross-check whether the drivers whom they are

recruiting are suitably licensed to drive or not. Taking a driving test of a driver and his having succeeded in the driving test cannot circumvent or dilute the duty of verifying the licence.

19. The submission of the DTC that there was no condition in the insurance policy requiring verification of the licence, in the opinion of this Court, has no merit. Verification of the licence is not something which needs to be assessed on the basis of *the small print* of the insurance policy, but instead for the safety of the passengers and those travelling on the road. The statutory mandate that a motor vehicle on the road should only be operated by a person holding a valid licence issued by the concerned authority is contained in Section 3 of the Motor Vehicles Act, 1988.

20. Third-party insurance, as mandated under Section 149(2)(a)(ii) of the Motor Vehicles Act, 1988 (prior to the 2019 Amendment), provides a condition excluding driving by a person who is not duly licensed or who has been disqualified from holding or obtaining a driving licence. The statutory mandate is, therefore, clear and categorical and does not require any further paraphrasing. A motor vehicle must only be driven by somebody who holds a valid licence issued by a duly constituted authority.

<u>On the duty of verification</u>

21. The issue then arises as to the extent to which the duty of verification is to be extended to the employer of the said driver. In this regard, the decisions of the Supreme Court in ***Lehru*** (*supra*), ***Swaran Singh*** (*supra*), and ***Geeta Bhat*** (*supra*) are relevant. The relevant paragraphs of the three decisions are extracted as under:

i. Relevant paragraph of ***Lehru*** (*supra*)

"*20. When an owner is hiring a driver he will therefore have to check whether the driver has a driving licence. If the driver produces a driving licence which on the face of it looks genuine, the owner is not expected to find out whether the licence has in fact been issued by a competent authority or not. The owner would then take the test of the driver. If he finds that the driver is competent to drive the vehicle, he will hire the driver. We find it rather strange that insurance companies expect owners to make enquiries with RTOs, which are spread all over the country, whether the driving licence shown to them is valid or not. Thus where the owner has satisfied himself that the driver has a licence and is driving competently there would be no breach of Section 149(2)(a)(ii). The insurance company would not then be absolved of liability. If it ultimately turns out that the licence was fake, the insurance company would continue to remain liable unless they prove that the owner/insured was aware or had noticed that the licence was fake and still permitted that person to drive. More importantly, even in such a case the insurance company would remain liable to the innocent third party, but it may be able to recover from the insured. This is the law which has been laid down in Skandia [(1987) 2 SCC 654] , Sohan Lal Passi [(1996) 5 SCC 21 : 1996 SCC (Cri) 871] and Kamla [(2001) 4 SCC 342 : 2001 SCC (Cri) 701] cases. We are in full agreement with the views expressed therein and see no reason to take a different view.*"

(emphasis added)

ii. Relevant paragraphs of ***Swaran Singh*** (*supra*)

"*90. We have construed and determined the scope of sub-clause (ii) of sub-section (2) of Section 149* *of the Act. <u>Minor breaches of licence conditions, such as want of medical fitness certificate, requirement about age of the driver and the like not found to have been the direct cause of the accident, would be treated as minor breaches of inconsequential deviation in the matter of use of vehicles</u>. Such minor and inconsequential deviations with regard to licensing conditions would not constitute sufficient ground to deny the benefit of coverage of insurance to the third parties.*

91. <u>On all pleas of breach of licensing conditions taken by the insurer, it would be open to the Tribunal to adjudicate the claim and decide inter se liability of insurer and insured</u>; although where such adjudication is likely to entail undue delay in decision of the claim of the victim, the Tribunal in its discretion may relegate the insurer to seek its remedy of reimbursement from the insured in the civil court.

Where the driver's licence is found to be fake

92. <u>It may be true as has been contended on behalf of the petitioner that a fake or forged licence is as good as no licence but the question herein, as noticed hereinbefore, is whether the insurer must prove that the owner was guilty of the wilful breach of the conditions of the insurance policy or the contract of insurance</u>. In Lehru case [(2003) 3 SCC 338 : 2003 SCC (Cri) 614] the matter has been considered in some detail. We are in general agreement with the approach of the Bench but we intend to point out that the observations made therein must be understood to have been made in the light of the requirements of the law in terms whereof the insurer is to establish wilful breach on the part of the insured and not for the purpose of its disentitlement from raising any defence or for the owners to be absolved from any liability

> *whatsoever. We would be dealing in some detail with this aspect of the matter a little later."*
>
> (emphasis added)

iii. Relevant paragraphs of ***Geeta Bhat*** (*supra*):

> "*7. An owner of the vehicle is bound to make reasonable enquiry as to whether the person who is authorised to drive the vehicle holds a licence or not. Such a licence not only must be an effective one but should also be a valid one. It should be issued for driving a category of vehicle as specified in the Motor Vehicles Act and/or Rules framed thereunder.*"
>
> (emphasis added)

22. *Paragraph 20* of ***Lehru*** (*supra*), extracted above, categorically provides that when an owner hires a driver, he is required to check whether the driver has a driving licence. If, however, the driver produces a licence which appears, on the face of it, to be genuine, the owner is not expected to find out whether the licence has in fact been issued by a competent authority. The owner may then take a driving test of the driver and, if he finds the driver competent, can hire the driver.

23. The Supreme Court further noted that the enquiry, as expected by the insurance companies from the owners to further verify the driving licence from a competent authority which issued it, is unreasonable. Therefore, employer/owner having complied with the aforesaid steps, the Insurance Company would not be absolved of liability.

24. The Supreme Court in *paragraph 92* of ***Swaran Singh*** (*supra*), as extracted above, stated that the Court was in general agreement with the approach adopted in ***Lehru*** (*supra*).

25. Further, in *paragraph 99* of the judgment, it is stated that the defence to the effect that the licence held by the person driving was fake would be available to the insurance companies, but despite the same, whether the plea of default on the part of the owner has been established or not would have to be determined on the facts of each case.

26. It was further clarified that ***Lehru*** (*supra*) cannot be read to mean that the owner of a vehicle can, under no circumstances, have any duty to make further enquiry in this respect. Defence by Insurance Company can still be raised, but it is for the insurer to prove that the insured did not take adequate care and caution to verify the genuineness or otherwise of the licence.

27. In ***Geeta Bhatt*** (*supra*), which followed ***Lehru*** (*supra*) and ***Swaran Singh*** (*supra*), it was assumed that the licence possessed by the driver was fake, but despite that, as per the settled legal position, it would not absolve the insurer from paying compensation in favour of the third party. The Court simply verified and endorsed the two principles that the decision in ***Swaran Singh*** (*supra*) has no application to cases other than third-party cases and that if the licence was fake, renewal cannot cure the inherent fatality, which aspect had also been confirmed earlier by the Supreme Court in ***Kamla*** (*supra*).

28. This being the settled position of law, the burden of proof on the insurance company is to *firstly*, establish that the licence was fake at the time of the accident; and *secondly*, the owner did not exercise due diligence in verifying the licence. Though the insurance company would

remain liable to pay the compensation, it would nevertheless have recovery rights against the employer.

29. Notably, the facts before the Court in ***Lehru*** (*supra*), ***Swaran Singh*** (*supra*), and ***Geeta Bhatt*** (*supra*) were related to private vehicles. However, what is imperative to examine is the *extent and nature of the due diligence* that the owner/employer is required to undertake in order to verify the licence of the driver whom they intend to employ.

30. As stated in *paragraph 20* of ***Lehru*** (*supra*), at best, a private employer can examine whether the licence, on the face of it, appears genuine or fake, and then take a driving test in order to satisfy itself regarding the competence of the driver, along with making an attempt at verification from the authority concerned, though the latter may not be practical in most cases.

31. The issue of verification, therefore, must also be considered in the modern context. The Government introduced an online portal called *'Parivahan'* in 2015, order to place details of licences on the portal so that they could be verified at the touch of a button. However, this facility was not available in 2011 when the accident took place. Physical verification being difficult, ***Lehru*** (*supra*) gave some relaxation regarding the onus in this respect. However, in ***Swaran Singh*** (*supra*), the Supreme Court cautioned that Tribunals and Courts have to be careful while assessing this aspect and would have to consider the facts and circumstances of each case.

32. In the opinion of this Court, the extent of due diligence, which a private owner can or must exercise, as compared to that which a public

authority (employing a fleet of vehicles) or a commercial operator, (operating a fleet of vehicles) must exercise, is fundamentally different.

33. A private employer may not have the administrative machinery at its command to seek physical verification, at least prior to 2015 (when the *Parivahan* facility came into existence or when it became fully operational and accessible). However, a commercial fleet operator or a State Authority operating a fleet of buses, taxis or transport vehicles has vast administrative machinery at its command. The responsibility is much greater considering that such vehicles carry members of the public who travel on the assurance that they will be safe in the said vehicles.

34. It would, therefore, be incumbent upon such entities to ensure that the drivers operating such vehicles, whether carrying a private consumer or the public at large in transport vehicles, have undergone a complete verification process, beyond merely taking a driving test, so as to verify the authenticity of their licences.

35. In the present case, an effort was made by the DTC to issue a letter to the Mathura Authority for verification of the licence. However, they did not wait for the response. Even if the response had not been received in time, the DTC machinery could have taken several further steps to ensure proper verification. However, it chose not to do so. Had the Mathura Authority responded, even with some delay, the DTC would have become aware at that very stage that the driver was carrying a fake licence. This is apart from the fact that, as noted earlier, *ex facie* the licence appeared to be fake on the basis of the dates endorsed therein.

36. The distinction between public duty and private duty was considered in detail by a Coordinate Bench of this Court in ***Delhi Transport Corporation v. United India Insurance Company Ltd. & Ors***. 2017:DHC:2649, wherein the Court observed as under in *paragraphs 13 and 14*:

> "*13. An insurance contract is based on uberrimae fides i.e. utmost good faith. When an insurer extends an insurance cover, it is done in the belief that the insured would take all necessary precautions and act as a reasonable person. The appellant is a statutory authority. It is statutorily mandated to provide public transport facility in the National Capital Territory of Delhi. <u>It is expected from a public employer to check the antecedents of its prospective employees and in particular the fact that the candidate possessed a valid driving license and that only after passing the special training, the selected candidates would be offered employment. In employment of drivers by a Government undertaking, the basic qualification is the possession of the driving license. The exercise of checking the validity of the driving license could be carried out even after offering provisional employment to the successful candidates</u>. The position of a public transport undertaking, or a large public transporter, who engage a number of drivers – in hundreds and thousands, to drive their fleet of vehicles, is different from a private individual who engages one or two drivers for his/ her personal service. The latter would not possess the necessary administrative or financial wherewithal to verify the driving license. The individual may perhaps be also constrained by exigencies to employ a driver immediately without awaiting a driving licence verification report. In*

Lehru (supra), the Court's concern that the objective of the legislation being that innocent third parties should be compensated, hence, it held that even in instances where the driving licence was fake, the insurer would remain liable to the innocent third party so that stipulations in sections 146, 147 and 149 of the Act are fulfilled and the award of compensation does not remain a hollow promise. In the present case, the third party liability has been met by the insurer, hence, the objective of the legislation apropos the innocent third party stands fulfilled. However, the Court went on to hold that after paying compensation to the third party, the insurer 'may be able to recover from the insured'.

14. In this regard, what needs to be examined is whether the appellant failed to exercise the reasonable care expected of it. The impugned award, while dealing with the issue of liability, records that the respondents had not led any evidence to establish that, at the time of employing the driver, the owner had undertaken any necessary test or verification regarding the driver's capability to operate the vehicle or the genuineness of his driving licence, and therefore could not be absolved of liability. It was observed that the appellant/DTC similarly failed to adduce any evidence to demonstrate that, before employing its drivers, it had conducted the requisite driving tests to assess their competence and capability or had verified the authenticity of their driving licences. Consequently, the DTC could not escape liability on that count. <u>If the appellant had in fact carried out the necessary assessment of the driving competence of prospective candidates and imparted the requisite training before entrusting them with public buses, it ought to have produced evidence to that effect</u>. Although the appellant

> *asserted that the drivers had undergone the necessary special training, no material was placed on record to substantiate such a claim. In the absence of any supporting evidence, it was evident that the appellant had failed to exercise reasonable care while employing the drivers. The Court further emphasised that responsible governance and prudence demand that drivers entrusted with ferrying commuters across the National Capital Territory of Delhi be imparted special training, particularly in view of the ever-increasing population and the corresponding rise in vehicular traffic on the city's roads. The numerous instances of rash and negligent driving involving DTC buses resulting in serious injuries and fatalities during the relevant period, and the continuing prevalence of such concerns, could not be ignored. A public transport undertaking, therefore, cannot be expected to place untrained, incompetent, or unlicensed drivers on the roads to the detriment of unsuspecting members of the public.*"
>
> (emphasis added)

37. The only distinguishing fact in that matter was that DTC had not conducted the necessary driving tests regarding the capability and competence of the drivers, and, therefore, it was held that DTC could not absolve itself of liability. Though this distinguishing feature has been pointed out by the counsel for DTC in the present appeal, this Court does not consider it to be material. The mere conduct of a driving test by the employer does not amount to certification of the driver's competence or fitness to drive.

38. The DTC is not a statutory authority empowered under the Motor Vehicles Act, 1988 or the Rules framed thereunder to issue driving

licences or certify a person's eligibility to drive a motor vehicle. Any driving test conducted by it is only for its internal assessment and satisfaction and has no statutory basis. It is only upon due examination by the competent licensing authority that a driving licence is issued, which constitutes a statutory authorization permitting the holder to drive. Accordingly, the submission of the DTC is untenable and cannot be accepted.

39. As regards the question whether the Insurance Company has discharged the burden of proof cast upon it, it would suffice to examine the pleadings and the evidence led by the Insurance Company through the testimony of **R3W1**, *Jagdish Chander*, Assistant, United India Insurance Company. In his affidavit by way of evidence, he deposed that during the investigation conducted by the police following the accident, it was discovered that the driver was not holding a valid driving licence, which constituted a breach of the terms and conditions of the insurance policy.

40. In the written statement, the Insurance Company specifically stated that the driver was not holding a valid driving licence on the date of the accident, and further stated that its liability would be governed by the terms and conditions of the insurance policy as well as the provisions of the Motor Vehicles Act. It may be contended that the Insurance Company did not specifically plead the aspect of due diligence required to be exercised by the DTC while employing the driver.

41. However, certain material facts relating thereto have since come on record during the pendency of the present appeal through additional documents placed on record by the DTC, along with an additional

affidavit. Therefore, the issue can be examined on the basis of the material now available before this Court.

42. Considering that the appeal is a continuation of the original proceedings, this Court considers it appropriate to assess the matter on the basis of the submissions advanced by the Insurance Company and the documents on record. It has been categorically averred and submitted by the Insurance Company, as noted above in the submissions of *Mr. Amit Kumar Singh*, counsel for Insurance Company, that the DTC failed to perform its duty to ensure proper verification of the licence. According to the Insurance Company, there was a serious omission on the part of DTC in failing to follow up and ensure that the authenticity of the licence was verified before employing the driver.

43. Moreover, it is noted that after engaging the driver following the driving test, the verification letter was sent on 03rd December 2010, soon after which the accident took place. Therefore, the burden of proof on Insurance Company would be considered to have been discharged, particularly in light of the documents elicited during the proceedings from the DTC itself.

44. Considering that these documents were produced by the DTC during the appeal proceedings, after having taken liberty from the Court, the Court cannot ignore the same and instead relegate the parties to rely on mere *pleadings or statements* before the MACT.

45. It is clear and categorical that the DTC was completely amiss in not awaiting verification of the licence from the Mathura Authorities before

employing the driver, as would be expected in discharge of the duty of a State Public Transport Corporation.

46. Accordingly, the Insurance Company's plea is accepted.

47. The appeal is allowed.

48. Recovery rights are granted to the Insurance Company against the Delhi Transport Corporation/respondent no.4.

49. Accordingly, the appeal is disposed of.

50. Pending applications, if any, are also disposed of as being rendered infructuous.

51. Statutory deposit, if any, be refunded.

52. Judgment be uploaded on the website of this Court.

ANISH DAYAL
(JUDGE)

JULY 01, 2026/*mk*/*bp*