

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****239****FAO-3140-2008 (O&M)
Date of decision: 13.05.2026****Dashmesh Pipe Industries****...Appellant(s)****Vs.****Major Singh @ Mejev Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**Present:- Mr. Ishmeet Singh, Advocate
for the appellant.Mr. R.C.Gupta, Advocate
for respondent No.3-Insurance Co.

NIDHI GUPTA, J.

The present appeal has been filed by the owner of the Truck (Trolla) bearing registration No. PCN 9577 (hereinafter referred to as "offending vehicle") laying challenge to the Award dated 23.05.2008 passed by the learned Motor Accident Claims Tribunal, Ludhiana (for short "the learned Tribunal"); whereby Claim Petition bearing MACT No. 11 dated 19.07.2004 filed by the injured-claimant/respondent No.2 herein, has been allowed; and compensation of Rs.4,57,180/- alongwith interest @ 6% p.a. has been awarded to the claimant.

2. Appellant is aggrieved of the fact that vide the impugned Award dated 23.05.2008, recovery rights have been granted to the Insurance Company/respondent No.3 herein, against the appellant on the ground that



respondent No.1/driver was not holding valid driving license at the time of accident.

3. Brief facts of the case are that the Id. Tribunal on the basis of evidence adduced by the parties concluded that the injured-claimant had suffered injuries in a motor vehicular accident that took place on 20.05.2004 at about 7:30 a.m. due to the rash and negligent driving of a Truck (Trolla) bearing registration No. PCN9577/Offending vehicle being driven by respondent No.1; owned by the appellant; and insured by respondent No.3. The recovery rights were granted against the appellant by the learned Tribunal for the following reasons: -

“17. It stands established on record, that respondent no. 1, did not possess valid and effective driving licence on the date of accident. On the face of copy of driving licence of respondent no. 1, it appears, of be fake, because his name, and seal of Registering authority are not correctly mentioned. RW1, has conceded that he did not verify genuineness of Driving Licence of Respondent No. 1, from the office of Registering Authority, conceded, before he employed him, as his driver on his truck. The person checked, his skill, has not been examined. As conceded by him, said person neither possessed, requisite qualification for testing skill of drivers, nor he has been authorized to do so, by any authority. There is no dispute that the initial onus is on insurance company, to prove that owner of the offending vehicle did not exercise due care and caution or failed in his duty, to check, to ensure that he possesses valid driving licence, before employment of driver, but respondent Insurance company in the instant case has established, by documentary evidence that respondent No. 1, did not possess



valid licence and respondent No. 2, was negligent, in checking his efficiency, to drive the truck (Trolla), and has failed, to ensure before his employment that he possessed, the valid driving licence. Since respondent No. 2 has handed, over his truck to unskilled person. In breach of terms and conditions of policy, as such respondent Insurance company cannot be burdened, with liability to pay compensation, to the claimant, for injuries sustained by him, in the accident. The facts and circumstances of the authorities relied upon by learned counsel for respondent no. 2, are quite distinguishable, from those of the case in hand, wherein driving licence of respondent no. apparently appears, to be fake. In 2004 (1) CLT SC 1 (Supra), Driving licence, was renewed after expiry of date of validity, however since accident took place during validity period of policy, therefore in view of law, laid down by Hon'ble Apex, court in 2001 ACJ SC 843 (Supra) insurance company, has to indemnify the claimant, although it can recover the amount subsequently, from the owner of truck involved, in the accident, i.e. Respondent No. 2 Bhajan Singh. In 2007 SCCR 898 (Supra), a lorry was involved in the accident, and its driver possessed, LMV driving licence, and subsequently it was endorsed, at the time of renewal, that he is entitled to driver heavy vehicles, and insured was none else but father of driver, unlike the case in hand, where respondent has no relationship with the owner or driver."

4. Learned counsel for the appellant *inter alia* submits that learned Tribunal was in patent error granting recovery rights against the appellant as the Tribunal failed to appreciate that the appellant had duly stated during his deposition that prior to appointing respondent No.1 as a Driver, he had taken driving test of respondent No.1; and that the respondent No.1 had shown his



driving license to the appellant which appeared to be genuine. It is submitted that therefore, appellant had taken due care and caution prior to employing respondent No.1. It is submitted that the appellant, in no manner, could have known that the driving license submitted by respondent No.1 was fake.

5. *Per contra*, learned counsel for the respondent-Insurance Company vehemently opposes submissions advanced on behalf of the appellant and refers to the findings of the learned Tribunal as recorded in para 8 of the impugned Award; as follows: -

"8. The onus to prove this issue has been placed, on respondent no. 3. The photocopy of driving licence of respondent no. 1, supplied by respondent no. 2, is Ex. R 1. The driving licence bearing no. M. 6778, and is purported, to have been issued. In the year 1993, by Licence Authority, Dehradun and is valid, upto 26.4.2004. The name of respondent no. 1, has been mentioned as Mejav Singh, with his parentage, as Gurdeep Singh and he is described, to be a resident of A 56, Ram Nagar, Dehradun. Respondent No. 3 has also tendered, in evidence, report of Samiksha Sharma, Advocate, dated 25.7.2005, Ex. R-3, enclosing therewith, report of office of D.T.O. Dehradun, addressed, to its divisional Manager, Dehradun, that driving licence bearing above said No., has not been issued, by the said office. The said report, has been received, in the office of respondent no. 3, at Ludhiana, vide letter dated 26.7.2005. Ex. R 2. Even Licencing Authority, Dehradun, has submitted report Ex. R 6, to the court, in an envelope, Ex. P. 10, in compliance to letter Ex. P7, that driving Licence has not been issued by his office. Respondent No. 3 has also tendered, copies of Challans Ex. R 8, and R 9 bearing No. 6778 and 6777 have been issued by



Licencing authority Dehradun, in the year 2003 in the names of different persons, for driving light transport vehicles. RW 1 Bhajan singh, Prop. Of Respondent No. 2, has conceded that Ex. R1 is correct copy, of Driving Licence of Respondent no. 1 and that he did not verify the genuineness of Driving Licence of Respondent No. 1, before his employment, as driver of his truck. In the light of above said facts, it can be safely held that respondent no. 1, did not possess valid and effective, driving licence on the date of accident, in which claimant sustained injuries. Therefore this issue, is decided in favour of respondent no. 3."

6. It is submitted that therefore, impugned Award suffers from no error, and the present Appeal deserves to be dismissed.

7. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find merit in the submissions advanced on behalf of learned counsel for the appellant.

8. Perusal of the record of the case shows that appellant himself has appeared before the learned Tribunal as RW1 and has deposed through his Affidavit Ex.RW1/A. The relevant extract of which reads as under: -

"..... Moreover, at the time of appointment of the respondent No.1 as driver, the deponent taken the driving test of the respondent No.1 and the respondent No.1 shown his driving licence to the deponent and from the face of the said driving licence shows the same was genuine. So, the deponent is not liable to pay any compensation to the claimant as the vehicle of the deponent was neither involved in the alleged accident. The claimant in connivance with their associates or with a view to wrongful loss to the deponent falsely entangled the deponent in



the present claim petition with ulterior motive. Thus, the present claim petition is liable to be dismissed.”

9. However, perusal of the impugned Award shows that while granting recovery rights to respondent No.1, learned Tribunal has made no reference whatsoever to the aforesaid evidence led by the appellant. Clearly therefore, the recovery rights have been wrongly granted to respondent No.3 against the appellant. I am supported in my view by a judgment passed by Hon’ble Supreme Court of India in **Civil Appeal No. 1959 of 2003** titled as **United India Insurance Company Ltd. v. Lehu (SC)**, **decided on 28.02.2003**. The relevant para of which reads as under:-

“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 RTO's, 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 had been laid down in Skandia's, Sohan Lal Passi's and Kamla's case. We are in full agreement with the views expressed therein and see no reason to take a different view."

10. Reference is also made to a judgment passed by this Court in **M/s Delhi Gujarat Fleet Carriers Pvt. Ltd. v. Baby Deepika, (Punjab And Haryana): Law Finder Doc Id # 2056141** wherein it is held as under: -

"9. This Court finds force in the submissions made by the learned counsel for the appellant-owner and has no hesitation in observing that the onus was on insurance company to prove the negligence on behalf of the owner of the offending vehicle to the effect that he had failed to verify or satisfy himself qua the authenticity of the driving licence. Neither any pleadings to the said effect were made by the insurance company nor any evidence was led. Merely because the driving licence of the driver of the offending vehicle may have been found to be fake could not be a sufficient ground by itself to absolve the insurance company of its liability to indemnify the insured or even a third party. No evidence at all was led to show that the appellant was aware that the driving licence of respondent No.1 was fake and still permitted him to drive the offending vehicle. The owner while employing the driver had satisfied himself about the driving skills of respondent No.1-driver and that he was holding a driving licence. An employer is not supposed to carry out a roving inquiry qua the authenticity of the driving licence by visiting the issuing authorities. Hon'ble Supreme Court in National Insurance Co. Ltd. v. Swaran Singh and others, 2004 (2) RCR (Civil) 114 has held that "to avoid its liability



towards the insured, the insurer would first have to prove that the insured was guilty of negligence i.e. he had failed to exercise reasonable care in the matter of fulfilling the condition of the insurance policy regarding the use of vehicles by duly licensed driver."

11. In view of the above noted factual and legal position, present Appeal is **allowed**; and the Award dated 23.05.2008 is modified/set aside to the extent whereby the learned Motor Accident Claims Tribunal, Ludhiana has given the respondent No.3 right to recover the amount of the Award paid to the claimant/ respondent No.2 from the appellant.

12. Pending application(s), if any, also stand(s) disposed of.

13.05.2026

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No