

**FAO-4075-2016 (O&M)**  
**FAO-5483-2016**

**1**

2025:PHHC:051838



127

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**Date of decision : 22.04.2025**

**FAO-4075-2016 (O&M)**

IFFCO-TOKIO GENERAL INSURANCE COMPANY LTD

....Appellant

Versus

LAJWANTI AND ORS

...Respondents

**FAO-5483-2016**

LAJWANTI AND OTHERS

....Appellants

Versus

KRISHAN AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Ankur Gupta, Advocate  
for the appellant in FAO No.4075 of 2016 and  
for respondent No.4/Insurance Co. in FAO No.5483 of 2016..

Mr. Maneet Kaushik, Advocate for  
Mr. Ashit Malik, Advocate  
for the appellant in FAO No.5483 of 2016 and  
for respondents No.1 to 5 in FAO No.4075 of 2016.

Mr. Sumit Gupta, Advocate for respondents No.6 and 7.

**PANKAJ JAIN, J. (ORAL)**

By way of instant order, I intend to dispose off the afore-  
captioned two appeals, filed by the rival parties, impugning the same award  
passed by MACT, Karnal.



2. FAO No.4075 of 2016 is at the behest of Insurer. FAO No.5483 of 2016 is at the behest of claimants.

3. Insurer questions the liability on the ground that the driver of the offending vehicle was not possessing valid driving licence on the date of accident. The contention is that vehicle falls within the category of Heavy Goods Vehicle. The driver possessed licence valid for LMV and Transport Motor Vehicles. Heavy Goods Carriage Vehicles being different from the Transport Motor Vehicles having gross weight of more than 7,500 Kg, the licence of the driver, cannot be held to be valid. Ld. Counsel for the Insurance Company submits that the Transport Vehicle as contemplated under Section 2(47) of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act of 1988) is different from Heavy Goods Vehicle as adumbrated under Section 2(16). Thus, in the absence of there being any endorsement on the licence *qua* Heavy Goods Vehicle, the licence cannot be held to be valid. Reliance is being placed upon Five Judges Bench of Supreme Court in the case of '**M/s Bajaj Alliance General Insurance Co. Ltd. vs. Rambha Devi and others**', (2025) 3 SCC 95.

4. Having heard counsel for the appellant/Insurance Company, this Court finds that the argument raised by the counsel sans merit and deserves to be rejected. Reliance placed upon ratio of law laid down in **Rambha Devi's** case (supra), is misplaced. The Authorization Certificate of N.P.



(Goods), Transport Department, Haryana in Form 47 as described under Rule 87(2) of the Central Motor Vehicles Rules, 1989, reads as under:

**TRANSPORT DEPARTMENT, HARYANA**

**FORM 47**

**[See Rule 87(2) of CMVR-1989]**

**AUTHORISATION CERTIFICATE OF N.P. (GOODS)**

- |                                     |   |
|-------------------------------------|---|
| 1. National Permit Authorization No | : NP/HR/10/112013/37341 Dated:20-Nov-2013                       |
| 2. Name & Address of Permit Holder  | : Sanjay<br>:13 VILL KUTAIL,<br>DISTT KARNAL,<br>HARYANA-132001 |
| 3. Registration Mark of Vehicle     | : <b>HR38R 5694</b>   |
| 4. Date of Registration             | : 29-Nov-2004   |
| 5. Maker & Model                    | : EICHER 1107   |
| 6. Engine Number                    | : E483NDHZ44495   |
| 7. Chassis Number                   | : 20GCYZ886465  |
| 8. Validity of NP Authorization     | : <b>21-Oct-2014</b>  |
| 9. Validity of Basic Goods Permit   | : <b>21-Oct-2016</b>  |
| 10. Type of Vehicle                 | : HEAVY GOODS VEHICLE   |
| 11. GVW (in Kgs)                    | : 10500   |
| 12. Unladen Weight (in Kgs)         | : 3650  |
| 13. Seating Capacity                | : 3   |

xxxx”

5. Section 2(16), 2(17), 2(23), 2(47) and Section 10 of the Act of 1988, read as under:

*“(16) “heavy goods vehicle” means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which, exceeds 12,000 kilograms;*

*(17) “heavy passenger motor vehicle” means any public service vehicle or private service vehicle or educational institution*



*bus or omnibus the gross vehicle weight of any of which, or a motor car the unladen weight of which, exceeds 12,000 kilograms;*

*(23) “medium goods vehicle” means any goods carriage other than a light motor vehicle or a heavy goods vehicle;*

*(47) “transport vehicle” means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle;*

**10. Form and contents of licences to drive.**—*(1) Every learner’s licence and driving licence, except a driving licence issued under section 18, shall be in such form and shall contain such information as may be prescribed by the Central Government.*

*(2) A learner’s licence or, as the case may be, driving licence shall also be expressed as entitling the holder to drive a motor vehicle of one or more of the following classes, namely:—*

*(a) motor cycle without gear;*

*(b) motor cycle with gear;*

*(c) invalid carriage;*

*(d) light motor vehicle;*

*2 [(e) transport vehicle;]*

*(i) road-roller;*

*(j) motor vehicle of a specified description”.*

6. Conjoint reading of the definition(s) of Heavy Goods Vehicle, Heavy Passenger Motor Vehicle, Medium Goods Vehicle and the Transport Vehicle provided in the enactment, would reveal that for a vehicle to be a ‘Heavy Goods Vehicle’, it must have unladen weight exceeding 12,000 Kgs. The vehicle in question has gross vehicle weight of 10,500 Kgs. Thus, the same would not fall within the definition of Section 2(16), but relate to ‘Medium Goods Vehicle’ as defined under Section 2(23).



7. As per Section 10, the forms and contents of the licences to driver are issued for the classes namely motor cycle without gear; motor cycle with gear; adapted vehicle; light motor vehicle; transport vehicle; road-roller; motor vehicle of a specified description. Clause (e) in Section 10(2) was amended and substituted by Act No.54 of 1994 whereby clauses (e) to (h) were substituted by single clause of (e) and transport vehicle substituted the other classes of vehicles including ‘medium goods vehicle’.

8. In view thereof, this Court finds that the licence possessed by the driver of the offending vehicle, cannot be said to be invalid.

9. Counsel for the appellant further submits that the licence was issued from Nagaland and thus it was a fake licence. Reliance is being placed upon report, Exhibit R-17. However, counsel for the Insurance Company is not in a position to dispute that only report was tendered in evidence, author thereof was not examined. Thus report cannot be held to be a document proved in accordance with law.

10. In the light of ratio of law laid down by Supreme Court in the case of ‘**National Insurance Company Limited vs. Swaran Singh**’, (2004) **3 SCC 297**, the onus lies upon the Insurance Company to prove that the licence was fake. The Insurance Company having failed to lead cogent evidence and to prove the report, the Insurance Company cannot be held to have discharged the onus casted upon it. Resultantly, the aforesaid plea is also rejected.



11. Consequently, the appeal preferred by the Insurance Co. i.e. **FAO No.4075 of 2016** is dismissed.

12. Claimants in appeal No.5483 of 2016 have assailed the assessment of compensation.

13. Counsel for the claimants has raised dispute w.r.t. deduction of TDS from the gross salary of the deceased. He submits that it is the income tax that needs to be deducted. At the end of the financial year, the TDS has to be considered in view of the gross income and the excess tax needs to be refunded. The deceased having gross salary of Rs.26,711/- was required to pay tax of Rs.7,053/- and thus the monthly liability *qua* income tax would be Rs.587.75/- whereas the Tribunal has deducted Rs.730/-.

14. The argument though at the first blush seems to be attractive but the same sans merit and deserves to be rejected.

15. The salary w.r.t ascertainment of just compensation, is the salary in hand. It is not denied that the deceased was getting salary after deduction of Rs.730/- at source.

16. In view thereof, this Court does not find any error committed by the Tribunal while assessing the monthly income of the deceased after deducting TDS of Rs.730/- and taking the monthly salary of deceased as Rs.25,981/-.

17. Counsel for the claimants further submits that future prospects need to be added to the net income instead of the method followed by the



Tribunal. On consideration, the method adopted by the Tribunal needs to be substituted. The compensation is being reassessed. Monthly salary of the deceased, is maintained at Rs.25,981/- as calculated by the Tribunal. Further, 30% thereof needs to be added on account of future prospects. To calculate dependency, 1/4th deduction, needs to be applied. Multiplier of 13 will be apt. For loss of consortium, each of the claimants shall be entitled to Rs.48,000/-. Rs.18,000/- are awarded on account of funeral expenses. Rs.18,000/- are awarded for loss of estate. Claimants are also held entitled for interest @ 7.5% per annum from the date of filing of the claim petition till the actual date of realization.

18. With the aforesaid modification, the appeal filed by the claimants bearing FAO No.5483 of 2016, is partly allowed.

19. Pending application(s), if any, shall also stand disposed off.

**April 22, 2025**

**Dpr**

**(Pankaj Jain)**

**Judge**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No