

FAO-7075-2017 (O&M)

2025:PHHC-078022



FAO-7076-2017 (O&M)

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

**Date of decision : 01.07.2025**

1

**FAO-7075-2017 (O&M)**

Oriental Insurance Co., Ltd.

....Appellant

Versus

Vikas Kumar & ors.

....Respondents

2

**FAO-7076-2017 (O&M)**

Oriental Insurance Co., Ltd.

....Appellant

Versus

Smt. Bala Devi & ors.

....Respondents

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

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Present:- Mr. Lalit Garg, Advocate  
for the appellant (in both cases)

Mr. Fateh Saini, Advocate  
for respondent No.2- FAO-7075-2017  
for respondent No.3-FAO-7076-2017

Mr. Amandeep Joshi, DAG, Haryana.

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

1 Insurance company is in appeal. The issue that commonly arises in the two appeals relates to valid driving licence being possessed by the Driver of the offending vehicle.



2 Mr. Lalit Garg, Advocate for the appellant submits that the Driver was resident of Haryana, but the licence was issued by licensing authority in Uttar Pradesh. He further submits that the licence was for driving transport vehicle and not for heavy transport vehicle.

3 Both the issues are no more *res-integra* and have already been answered against the Insurance Company.

4 Grant of driving licence is governed by Section 9 of the Motor Vehicles Act, 1988 (for short 'the Act') that reads as under :-

***“9. Grant of driving licence—(1) Any person who is not for the time being disqualified for holding or obtaining a driving licence may apply to the licensing authority having jurisdiction in the area—***

*(i) in which he ordinarily resides or carries on business, or*

*(ii) in which the school or establishment referred to in section 12 from where he is receiving or has received instruction in driving a motor vehicle is situated, for the issue to him of a driving licence.*

*(2) Every application under sub-section (1) shall be in such form and shall be accompanied by such fee and such documents as may be prescribed by the Central Government.*

*<sup>1</sup>[(3) If the applicant passes such test as may be prescribed by the Central Government, he shall be issued the driving licence:*

*Provided that no such test shall be necessary where the applicant produces proof to show that—*

*(a) (i) the applicant has previously held a driving licence to drive such class of vehicle and that the period between the date of expiry of that licence and the date of the application does not exceed five years, or*



*(ii) the applicant holds or has previously held a driving licence to drive such class of vehicle issued under section 18, or*

*(iii) the applicant holds a driving licence to drive such class of vehicle issued by a competent authority of any country outside India, subject to the condition that the applicant complies with the provisions of sub-section (3) of section 8,*

*b) the applicant is not suffering from any disability which is likely to cause the driving by him to be a source of danger to the public; and the licensing authority may, for that purpose, require the applicant to produce a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8:*

*Provided further that where the application is for a driving licence to drive a motor vehicle (not being a transport vehicle), the licensing authority may exempt the applicant from the test of competence to drive a vehicle prescribed under this sub-section, if the applicant possesses a driving certificate issued by any institution recognised in this behalf by the State Government.]*

*(4) Where the application is for a licence to drive a transport vehicle, no such authorisation shall be granted to any applicant unless he possesses such minimum educational qualification as may be prescribed by the Central Government and a driving certificate issued by a school or establishment referred to in section 12.*

<sup>1</sup>*[(5) Where the applicant does not pass the test; he may be permitted to re-appear for the test after a period of seven days:*

*Provided that where the applicant does not pass the test even after three appearances, he shall not be qualified to re-appear for such test before the expiry of a period of sixty days from the date of last such test.]*



*(6) The test of competence to drive shall be carried out in a vehicle of the type to which the application refers:*

*Provided that a person who passed a test in driving a motor cycle with gear shall be deemed also to have passed a test in driving a motor cycle without gear.*

*(7) When any application has been duly made to the appropriate licensing authority and the applicant has satisfied such authority of his competence to drive, the licensing authority shall issue the applicant a driving licence unless the applicant is for the time being disqualified for holding or obtaining a driving licence:*

*Provided that a licensing authority may issue a driving licence to drive a motor cycle or a light motor vehicle notwithstanding that it is not the appropriate licensing authority, if the licensing authority is satisfied that there is good and sufficient reason for the applicant's inability to apply to the appropriate licensing authority:*

*Provided further that the licensing authority shall not issue a new driving licence to the applicant, if he had previously held a driving licence, unless it is satisfied that there is good and sufficient reason for his inability to obtain a duplicate copy of his former licence.*

*(8) If the licensing authority is satisfied, after giving the applicant an opportunity of being heard, that he—*

*(a) is a habitual criminal or a habitual drunkard; or*

*(b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985);* or

*(c) is a person whose licence to drive any motor vehicle has, at any time earlier, been revoked, it may, for reasons to be recorded in writing, make an order refusing to issue a driving licence to such person and any person aggrieved*



*by 586 an order made by a licensing authority under this sub-section may, within thirty days of the receipt of the order, appeal to the prescribed authority.*

*(9) Any driving licence for driving a motor cycle in force immediately before the commencement of this Act shall, after such commencement, be deemed to be effective for driving a motor cycle with or without gear.*

*<sup>1</sup>[(10) Notwithstanding anything contained in this section, the driving licence to drive e-cart or e-rickshaw shall be issued in such manner and subject to such conditions, as may be prescribed.]”*

5           No evidence was led by the Insurance Company to dislodge the licence by bringing cogent evidence on record that the driver never obtained any training from driving school in Uttar Pradesh. No effort was made to examine the Driver.

6           So far as the issue regarding heavy transport vehicle and transport vehicle is concerned, the same is misconceived in view of Section 10 of the Act.

7           At this stage, Mr. Lalit Garg, Advocate for the appellant brings to the notice of this Court that in FAO No.7076 of 2017 arising out of claim petition bearing MACT No.2 of 2017 titled as ***Smt.Bala Devi & anr. Vs. Manish Kumar & ors.***, the Tribunal erred in awarding 50% future prospects which ought to have been 40%.

8           Counsel for the claimant is not in a position to dispute that in view of the ratio of law laid down by Supreme Court in the case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** the same has to be 40%.

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9           Consequently **FAO No.7075 of 2017** and **FAO No.7076 of 2017** are disposed off with the modification in the impugned award that the future prospects *qua* income of deceased Sandeep shall be payable to the tune of 40% of his monthly income and not 50%.

10           The rate of interest payable on awarded amount shall be 7.5% per annum from the date of application till the date of actual realization.

11           Pending miscellaneous application, if any, also stands disposed off.

12           A copy of this order be kept on the file of other connected case.

**01.07.2025**

*Pooja Sharma-I*

**( PANKAJ JAIN )  
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No