

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****211****FAO-5514-2010 (O&M)****Date of decision: 18.02.2025****Anoop Jain & Another****...Petitioner(s)****Vs.****Pawan Kumar & Another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Rajesh Gupta, Advocate
for the appellants.

Dr. Anjali Bansal, Advocate
Mr. D.R. Bansal, Advocate
for respondent No.2/Insurance Company.

NIDHI GUPTA, J.

The appellants before this Court are the driver and owner of the Maruti Car bearing registration No.PB-10S-0299 (hereinafter referred to as "the offending vehicle") against the Award dated 28.04.2010 passed by Motor Accident Claims Tribunal, Ludhiana, whereby liability to pay compensation of Rs.2,57,921/- to the injured-claimant/respondent No.1 herein, has been affixed upon the appellants on the ground that on the date of accident i.e. 06.09.2004, the appellant No.1/driver of the offending vehicle, did not possess a valid driving licence.

2. Brief facts of the case are that the claimant/respondent No.1 had filed the present claim petition bearing MACT Case No.2 dated 03.01.2006 under Section 166 of the Motor Vehicles Act, 1988 pleading/alleging therein that he had suffered injuries in the motor



vehicular accident that took place on 06.09.2004 at 3:15 pm due to the rash and negligent driving of the offending vehicle by appellant No.1. The offending vehicle was owned by appellant No.2 and insured by respondent No.2. Due to the accident, the claimant suffered damage to his right eye and ear. The learned Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties concluded that the claimant had indeed suffered injuries in the accident in question due to the rash and negligent driving of the offending vehicle by appellant No.1. Accordingly, the claim petition of the claimant was partly allowed with costs. It was directed that *"...The Insurance Company is directed to make the payment of compensation within three months from the date of award failing which claimant is entitled to interest at the rate of 6% P.A from the date of claim petition till its actual realization. All the respondents are jointly and severally liable to make the payment of compensation. However, in view of the findings on Issue No. 3, the Insurance Company is entitled to recover this amount from respondents No. 1 and 2...."*

3. Learned counsel for the appellants assails the said direction of the learned Tribunal on the ground that the appellant No.1 had placed on record a valid driving licence (Ex.R8) as per which the date of expiry of the licence of the appellant No.1 was 08.04.2010. It is submitted that therefore, on the date of accident i.e. 6.9.2004, the appellant no.1/Driver possessed a valid driving license. It is submitted that the learned Tribunal has wrongly relied upon the report of the Licensing



Authority (Ex.R2) which shows the validity of the licence to be from 09.04.1996 to 08.04.1999. It is contended that the said report of the Licensing Authority (Ex.R2) is per se not admissible because it is not a public record; and in order to confirm this fact, the Insurance Company should have examined the official from the office of the Licensing Authority. It is submitted that the appellants were denied the valuable opportunity to cross-examine the said witness, who, if produced by the Insurance Company, the appellant would have established that the licence of appellant No.1 was expiring on 08.04.2010 and not 08.04.1999 as wrongly alleged in the report (Ex.R2). It is therefore prayed that the impugned Award be modified.

4. Learned counsel for respondent No.2/Insurance Company vehemently opposes the prayer made on behalf of the appellants and submits that Ex.R2 cannot be discarded as the same is a public document and is therefore, very much admissible in evidence without examining officials from Licensing Authority. Furthermore, the authenticity of the photocopy of the driving licence (Ex.RA) produced by the appellant No.1 as per which the licence No.081981/1996 is shown to be valid up to 08.04.1999, is doubtful. It is further pointed out that this Court had sought a report in respect of the license of the appellant no.1; and that the parties are bound by the said report.

5. No other argument is made on behalf of the parties.



6. I have heard learned counsel for the parties and perused the case file in great detail.

7. This Court vide order dated 12.09.2019 had sought a report from the District Transport Officer, Ludhiana in respect of the “...issuance and expiry date of driving licence No.081981 dated 09.04.1996 in the name of appellant-Anoop Kumar within three weeks' from today...”. The said order dated 12.09.2019, reads as follows: –

“CM-1613-CII-2017

Pursuant to order dated 09.09.2016, learned counsel for the appellants through this application has prayed for placing on record report from the office of District Transport Office, Ludhiana.

Heard.

CM is allowed and the same is taken on record.

CM-6009-CII-2019

Through this application under Order 41 Rule 27 read with Section 151 CPC, the appellant has sought summoning of Clerk from the office of District Transport Office, Ludhiana along with record pertaining to licence No.081981 dated 09.04.1996.

Reply filed on behalf of respondent No.2 is taken on record. Office to tag the same at appropriate place.

Heard.

The application is rejected. In the fitness of things, District Transport Officer, Ludhiana is directed to submit his report qua issuance and expiry date of driving licence No.081981 dated 09.04.1996 in the name of appellant-Anoop Kumar within three weeks' from today.



Registry is directed to send intimation in this regard to District Transport Officer, Ludhiana telephonically, through fax and e-mail as well.

It is however made clear that report of District Transport Officer, Ludhiana, shall have binding effect upon both the sides.

Adjourned to 03.02.2020.”

8. Pursuant to the above said order, report dated 16.12.2019 has been received from the Regional Transport Authority, Ludhiana, Punjab, as per which it is stated as follows: -

“This is to certify that Driving License No. PB-81981 Dated 09-04-1996 has been issued by the License Authority, Regional Transport authority Ludhiana, Punjab, (India) in the Name of ANOOP JAIN(D.O.B 08.06.1970 As per Driving License) S/ LDHD/W/ of CHANDER BHUSHAN JAIN R/O 604 AGGER NAGER DISTT.LUDHIANA. For SCOOTER,LMV TRANSPORT only which is valid up to 08.04.1999 as per record maintained in this office. The said driving license is correct and genuine as per record.”

9. From the above report, it is evident that the appellant no.1 was issued a Driving license No. PB-81981 Dated 09-04-1996 for scooter and LMV transport, and which was valid up to 8.4.1999. It is therefore clear that on the date of accident i.e. 6.9.2004, the appellant no.1 did not possess a valid driving license. It is not denied by learned counsel for the appellants that both the parties are bound by the above said report.

10. In view of the above, present appeal is **dismissed**.



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

18.02.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No