



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

**FAO-6905-2019 (O&M)**

**Date of Decision : 11.08.2025**

Kasam Din & Anr ... Appellant(s)

Versus

Shriram General Insurance Company Limited & Ors ... Respondent(s)

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Ashish Gupta, Advocate for the appellants.

**ALKA SARIN, J. (Oral)**

**CM-23726-CII-2019**

1. For the reasons mentioned therein, the application seeking condonation of delay of 361 days in filing the appeal is allowed and the delay of 361 days in filing the appeal is condoned.

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2. The present appeal has been preferred by the appellants (owner and driver of the offending vehicle) aggrieved by the impugned award dated 05.07.2018 passed by the Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'Tribunal') whereby the recovery rights had been granted to the Insurance Company.

3. Brief facts relevant to the present *lis* are that on 13.02.2015 Dharam Singh son of Kehar Singh alongwith his sister Kashmiro @ Dharmo (since deceased) wife of Kulwant and brother in law Kulwant Singh was travelling on a motor cycle bearing registration No.HR-51AF-7889 and at about 1:30 pm, when they reached near Dulahwat, Petrol Pump, Police

Station Tauru, a dumper bearing registration No.HR-55G-7199 (hereinafter referred to as 'offending vehicle') being driven by the appellant herein in a rash and negligent manner came and hit their motorcycle. As a result of the accident, Dharam Pal and his brother-in-law Kulwant sustained some injuries on their persons. The deceased sustained multiple injuries, and she was brought to Nalhad Medical College Nuh, Mewat for treatment where during the course of treatment she succumbed to her injuries. On the statement of complainant Dharam Singh, a FIR No.64 dated 13.02.2015 was registered under Sections 279 and 337 of the Indian Penal Code, 1860 was registered at Police Station Tauru, Mewat.

4. On notice, respondent No.1 (appellant herein) filed his written statement taking various preliminary objections. The factum of the accident was denied. The Insurance Company (respondent No.1 herein) filed its written statement raising various preliminary objections. It was stated that no accident took place due to rash and negligent driving of the driver of the offending vehicle. It was averred that there is a violation of the terms and conditions of the Insurance Policy.

5. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether Kashmiro alias Kashmiri alias Dharmo died in a motor vehicular accident which took place on 13.2.2015 at Dhulawat Petrol Pump, P.S.Tauru, District Mewat, being caused by respondent no.1 while driving vehicle bearing no. HR-55G-7199 in a rash and negligent manner ? OPP

2. If issue no.1 is proved, whether the petitioners are entitled to compensation, if so to what amount and from

whom ? OPP

3. Whether the respondent no.1 was not holding a valid and effective driving licence at the time of accident and if so, its effect ? OPR

4. Whether the respondent no.3 has contravened violated, infringed and breached the terms and conditions of the insurance policy and if so, its effect ? OPR-2

5. Relief.

6. The Tribunal vide the impugned award, holding that the driver of the offending vehicle was not holding a valid driving licence and that the offending vehicle was being plied without any valid route permit at the time of the accident, had granted recovery rights to the Insurance Company. Hence, the present appeal.

7. Learned counsel for the appellants has contended that in the present case the Tribunal has wrongly granted recovery rights in favour of the Insurance Company (respondent No.1 herein). He would further contend that the findings of the Tribunal to the effect that the driver of the offending vehicle was not holding a valid driving licence and that the offending vehicle was being plied without any valid route permit at the time of the accident are erroneous.

8. I have heard the learned counsel for the parties.

9. In the present case the only challenge is to the recovery rights granted to the Insurance Company on the ground that the findings of the Tribunal on issue Nos.3 and 4 are erroneous. The onus to prove issue No.3 was on the appellants herein and that of issue No.4 was on the Insurance Company. The licence is stated to have been issued from the Regional Transport Authority, Mokokchung, Nagaland and as per the letter (Ex.R1),

no such driving licence was issued in favour of the driver of the offending vehicle by the said Regional Transport Authority.

10. Admittedly the accident in question had taken place on 13.02.2015. The Insurance Company tendered in evidence the endorsement (Ex.R2) issued by the Assistant Secretary, Regional Transport Authority, Gurugram as well the Insurance Policy (Ex.R3). As is apparent from endorsement (Ex.R2), the route permit of the offending vehicle was valid w.e.f. 20.02.2015 to 05.02.2020 hence, as on the date of accident, the offending vehicle was being plied without any valid route permit.

11. The appellants-driver and owner did not step into the witness box to prove their case and to falsify the above documentary evidence. The Hon'ble Supreme Court in the case of **Amrit Paul Singh Vs. Tata AIG General Insurance Co. Ltd. [2018 (3) RCR (Civil) 131]** held that the vehicle not having a permit at all and being used for hire or reward is a case of fundamental breach hence the insurer though absolved of its liability had to pay the compensation and recovery order was made in the said case permitting recovery from the insured. Similarly, in a latest judgment dated 29.01.2025 passed in **M. Ananthi & Ors. Vs. P. Venkatesan & Anr. [Civil Appeal No.1175 of 2025]** Hon'ble Supreme Court has held as under :

*“7. In so far as the liability on the Insurance Company is concerned, the Courts below have rightly held that since the driver of the offending vehicle was not having any license to drive the same, the Insurance Company cannot be held liable to compensate.*

*8. We find no error or illegality in the said part of the order also. However, while granting the compensation of*

*Rs.10,36,000/- (Rupees ten lakhs thirty-six thousand) with interest, the High Court has not directed the Insurance Company to pay the sum and to recover the same from the owner/driver.*

*9. In the case of National Insurance Co. Ltd. Vs. Swaran Singh and Ors.: (2004) 3 SCC 297, it has been laid down that the claimant should not be allowed to suffer and run about to release the compensation awarded and that, it is in the fitness of things that the Insurance Company in such cases should first pay and then recover the amount.”*

12. In view of the above, no fault can be found with the findings returned by the Tribunal granting recovery rights to the Insurance Company. The present appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

11.08.2025  
Yogesh Sharma

( ALKA SARIN )  
JUDGE

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO