



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

107

**Date of decision : 03.03.2025**

**1. FAO-532-1995**

**Lilawati and others**

**..... Appellants**

**versus**

**Subhash and others**

**..... Respondents**

**2. FAO-386-1995**

**The Oriental Insurance Company Ltd.**

**..... Appellant**

**versus**

**Lilawati and others**

**..... Respondents**

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

Present: Mr. Vinod Gupta, Advocate  
for the appellant in FAO-532-1995.

Mr. Sahej Mahajan, Advocate for  
Mr. R.K. Bishamboo, Advocate  
for the appellant in FAO-386-1995 and  
for respondent No.3 in FAO-532-1995.

Mr. Ram Kumar Saini, Advocate and  
Mr. Ankit Saini, Advocate  
for the respondent-Subhash in both appeals.

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

1. The solitary issue raised by counsel for the appellant-insurance company relates to validity of licence. It has been contended that in terms of verification report Ex.R-5, original driving licence No.8817/179 was found to be fake. However, as per report Ex.P-3 made by licencing officer of Hisar, the licence of respondent-Subhash is



proved to have been renewed from 1982 to 1994 from the office of licencing authority, Hisar.

2. Counsel for the appellant submits that as per settled law, an invalid/fake licence cannot attain legality merely by renewal thereof. However, at the same time, counsel for the appellant is not in a position to dispute that the report Ex.R-5, though was produced by the insurance company, but the same was never proved as the author thereof was never examined.

3. In view thereof, this Court does not find that Ex.R-5 i.e. the verification report can be relied upon. So far as report Ex.P-3 is concerned, the same does not say that the licence was originally a fake licence. In view thereof, reliance upon *New India Insurance Company vs. Kamla and others* reported as (2001) 4 Supreme Court Cases 342 is misplaced.

4. In view of law laid down by 3 Judges Bench of Supreme Court in the case of *National Insurance Co. Ltd. v. Swaran Singh* reported as (2004) 3 SCC 297, onus to prove that the licence is fake is upon the insurer. The insurer has to prove the same by leading positive evidence. The evidence not only was discrepant, but also was found wanting for mode of proof, thus, it cannot be relied upon. No fault can be found with the findings recorded by the Tribunal with respect to legality of the licence and the liability put upon the insurance company while deciding issue No.3. In view of above, the appeal i.e. **FAO-386-1995** preferred by the insurance company is dismissed.

5. Counsel however submits that interest has been awarded @ 12% and the same is exorbitant.



6. Keeping in view that the interest needs to be awarded at reasonable rate, the same is reduced to 9% payable for the period commencing from the date of filing the application till the date of actual realization. Needless to say nothing paid shall be set off and adjusted.

7. The other appeal has been preferred at the instance of claimants who are seeking enhancement. There is no dispute with respect to the monthly income of the deceased i.e. 2634/-. The same has been rightly assessed. The deceased being Government employee, therefore, counsel for the claimants has rightly submitted that the dependency has been wrongly assessed by deducting 1/3 which should have been 1/4 as there are four claimants. Similarly, nothing has been awarded under the head of future prospects in terms of law laid down in '*National Insurance Company Limited vs. Pranay Sethi and others*', (2017) 16 SCC 680 and keeping in view the age of the deceased i.e. 41 years, 30% future prospects need to be awarded. Multiplier also needs to be altered from 12 to 14. All the four claimants are further entitled for loss of consortium @ Rs.48,000/- each. Further amount of Rs.18,000/- is awarded under each head of loss of estate and funeral expenses.

8. With the aforesaid modification the impugned award, appeal preferred by the claimants i.e. **FAO-532-1995** is disposed off.

9. A photocopy of this order be placed on the file of other connected case.

**(PANKAJ JAIN)  
JUDGE**

**03.03.2025**

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Whether speaking/reasoned :

Yes

Whether Reportable :

No