2026:PHHC:124793

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6604-2016

Sameer Gaba **. . . . Appellant**

Vs.

Priyanka and Others . . . . Respondents

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Reserved on: 03.09.2026
Pronounced on: 07.09.2026
Pronounced fully/operative part: Fully

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Argued by:- Mr. Prateek Mahajan, Advocate and
Ms. Arche Anant, Advocate for
the appellant.

Mr. Vinod Chaudhari, Advocate
for the respondents.

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DEEPAK GUPTA, J.

The appellant, who was arrayed as the driver of car bearing registration No.HR-08M-0003, has preferred the present appeal against the award dated 27.05.2016 passed by the Motor Accidents Claims Tribunal, Kurukshetra, to the limited extent that the Insurance Company has been granted a right to recover the compensation payable by it from the appellant-driver and the owner of the vehicle.

2. The claim petition arose out of a motor vehicular accident dated 31.08.2015, in which Jivika, aged about nine months, lost her life. The Tribunal awarded compensation of ₹2,49,500/- along with interest at the rate of 9% per annum and held the appellant-driver and the owner of the offending car jointly and severally liable. The insurer was directed to satisfy the award in the first instance, with liberty to recover the amount from the

driver and the owner, on the finding that the appellant did not possess a valid and effective driving licence authorising him to drive the vehicle in India.

Contentions of the appellant

3.1 Learned counsel for the appellant submits that the appellant had, from the very inception, denied that he was driving the offending vehicle at the time of the accident. The appellant entered the witness box and testified to that effect. It is contended that the owner of the vehicle did not appear as a witness to establish that the appellant had been employed or authorised by him to drive the vehicle.

3.2 It is further submitted that Pankaj Kumar, who had appeared before the Tribunal as PW1, was subsequently examined as a prosecution witness in the criminal trial and stated that he could not see the person, who was driving the offending vehicle. A certified copy of his statement recorded before the criminal Court has been produced before this Court by way of additional evidence as Annexure P-1. The judgment passed by the criminal Court acquitting the appellant has similarly been placed on record as Annexure P-2. On the strength of these documents, it is contended that the identity of the appellant as the driver of the offending vehicle stands seriously discredited and that the finding returned by the Tribunal cannot be sustained.

3.3 The final submission is that, even assuming that the appellant was driving the car, he had produced a driving licence issued by the competent authority in Victoria, Australia, which was valid up to 11.04.2017 and authorised him to drive a car. The Tribunal is stated to have erred in ignoring the said licence merely because it had not been issued or endorsed by an Indian licensing authority. On these premises, the appellant seeks exoneration from the liability imposed upon him under the award.

Contentions of the insurer

4.1 *Per contra*, learned counsel appearing for the Insurance Company submits that the findings recorded in a criminal prosecution are neither binding upon the Claims Tribunal nor determinative of proceedings under the Motor Vehicles Act, 1988. A claim petition is decided on the touchstone of preponderance of probabilities, whereas a criminal charge is required to be proved beyond reasonable doubt.

4.2 It is further submitted that the testimony given by a witness in a separate criminal proceeding cannot automatically be read as substantive evidence in the claim proceedings. The Tribunal was required to determine the matter on the basis of the evidence led before it. Before the Tribunal, Pankaj Kumar appeared as PW1 and categorically identified the appellant as the driver of the offending car. His testimony remained unshaken in cross-examination and was corroborated by the promptly lodged FIR and the police report.

4.3 Learned counsel further submits that the appellant admitted during cross-examination that he did not possess any driving licence issued by an Indian licensing authority. The licence issued in Australia, without a valid international driving permit or the requisite authorisation recognised under Indian law, did not entitle him to drive a motor vehicle in a public place in India. The insurer was, therefore, rightly granted recovery rights.

Consideration by the Court

5. I have heard learned counsel for the parties and have gone through the award and the record available before this Court.

6. Two distinct questions arise for consideration:

(i) whether the finding that the appellant was driving the offending vehicle suffers from any perversity; and

(ii) whether the driving licence issued by the Australian authority constituted a valid and effective driving licence for driving the offending vehicle in India.

Identity of the driver and effect of acquittal

7. The contention that the appellant was not driving the offending car cannot be accepted. Pankaj Kumar, father of the deceased child and an occupant of the motorcycle involved in the accident, appeared as PW1. He gave a specific account of the accident and deposed that the car driven by the appellant came from behind at a high speed and, while overtaking, struck the motorcycle. The Tribunal noticed that he had been subjected to lengthy cross-examination, but his testimony regarding the manner of the accident, and the identity of the driver could not be discredited.

8. His version was corroborated by the FIR lodged on the date of the accident, the report under Section 173 of the Code of Criminal Procedure and the other contemporaneous material. The appellant, while appearing as RW2, admitted that he had been arrested and challaned in connection with the accident and that he had not submitted any complaint to the police or to any superior authority alleging false implication.

9. It is well settled that proceedings before a Claims Tribunal are not governed by the strict standard of proof applicable to a criminal prosecution. Negligence and involvement of the offending vehicle are required to be established on the touchstone of preponderance of probabilities and not beyond reasonable doubt. Reference may be made to ***Bimla Devi and others v. Himachal Road Transport Corporation and others, (2009) 13 SCC 530; Mangla Ram v. Oriental Insurance Company Limited and others, (2018) 5 SCC 656;*** and ***Sunita and others v. Rajasthan State Road Transport Corporation and another, (2020) 13 SCC 486.***

10. The appellant has produced, by way of additional evidence before this Court, the statement of Pankaj Kumar recorded during the criminal trial as Annexure P-1 and the judgment of acquittal passed by the criminal Court as Annexure P-2. These documents are relevant for examining the correctness of the finding recorded by the Tribunal regarding the identity of the driver. Their effect, however, has to be considered in the context of the distinct nature of the proceedings before the criminal Court and the Tribunal and the standard of proof applicable thereto.

11. A perusal of Annexure P-1 shows that, while deposing before the criminal Court, Pankaj Kumar stated that he could not see the person who was driving the offending car. This statement is at variance with his testimony before the Tribunal, where he had specifically attributed the driving of the offending car to the appellant. The subsequent statement, therefore, is certainly a circumstance which has to be taken into consideration while examining the finding recorded by the Tribunal.

12. The judgment of acquittal, Annexure P-2, however, cannot by itself be treated as determinative of the issue in the present proceedings. The criminal Court was required to examine the prosecution case on the standard of proof beyond reasonable doubt, whereas the Tribunal determines the issue of negligence and involvement on the touchstone of preponderance of probabilities. An acquittal in the criminal case, therefore, does not ipso facto exonerate the appellant from civil liability arising out of the same occurrence.

13. The question, nevertheless, is whether the material placed on record before this Court, particularly Annexure P-1, is sufficient to displace the finding of the Tribunal. In this regard, it is significant that the FIR was lodged on the date of the accident and the appellant was specifically named as the driver of the offending vehicle. During the investigation, the police proceeded against him and filed the report under Section 173 Cr.P.C. The appellant himself admitted before the Tribunal that he had been

arrested and challaned in connection with the accident. He further admitted that he had not made any complaint to the police authorities or their superior officers alleging that he had been falsely implicated.

14. The appellant, while appearing as a witness before the Tribunal, merely denied that he was driving the offending vehicle. He did not, however, produce any independent evidence to establish that some other person was driving the car at the relevant time. Thus, although the statement of Pankaj Kumar recorded in the criminal trial creates an inconsistency regarding the identity of the driver and the judgment of acquittal is a relevant circumstance, the said material has to be weighed against the contemporaneous implication of the appellant, the police investigation and the other evidence available before the Tribunal.

15. On an overall appreciation of the material, the subsequent statement of Pankaj Kumar and the acquittal of the appellant in the criminal case may have been sufficient to create a reasonable doubt in the criminal proceedings, but they do not, in the facts of the present case, render the finding of the Tribunal perverse or wholly unsupported by evidence. The Tribunal had before it the sworn testimony of Pankaj Kumar, the contemporaneous FIR and the police record, apart from the appellant's own admissions regarding his arrest and prosecution. The standard applicable before the Tribunal being that of preponderance of probabilities, the mere fact that the same witness subsequently did not identify the appellant as the driver in the criminal trial cannot, by itself, lead to a contrary conclusion.

16. The non-examination of the owner also does not advance the appellant’s case. Liability of the appellant as the person who drove the offending vehicle does not depend upon proof of a formal contract of employment between him and the owner. Once the evidence establishes that he was driving the vehicle with the owner’s authority or permission, absence of proof of a master-servant relationship is immaterial. Moreover,

it was open to the appellant to summon the owner, if his testimony was considered essential to the defence. No adverse inference can be drawn against the claimants merely because the owner did not enter the witness box.

17. Consequently, even after taking Annexures P-1 and P-2 into consideration, this Court finds no sufficient ground to interfere with the finding of the Tribunal that the appellant was driving the offending vehicle at the time of the accident.

Validity of the Australian driving licence

18. Section 3 of the Motor Vehicles Act, 1988 prohibits a person from driving a motor vehicle in a public place unless he holds an effective driving licence authorising him to drive that vehicle. A foreign driving licence does not, merely because it is valid in the country of its issuance, automatically confer a right upon its holder to drive a motor vehicle in India.

19. The appellant produced a licence issued by the competent authority in Victoria, Australia. However, he admitted in cross-examination that he did not possess any driving licence issued by an Indian licensing authority. Though he asserted that an earlier Indian licence had been deposited with the Australian authority, he could not disclose its number, date of issuance, period of validity or even the name of the issuing authority. Neither a copy of the alleged Indian licence nor any record from the concerned authority was produced.

20. More importantly, the document produced by the appellant was only an Australian domestic driving licence. No international driving permit valid for use in India, or any endorsement or authorisation by a competent Indian authority, was produced. A licence issued by a foreign authority cannot be equated with a driving licence valid under Chapter II of

the Motor Vehicles Act merely on the ground that it authorised the holder to drive a similar class of vehicle in the foreign country.

21. A similar contention was rejected by this Court in ***Dilpreet Singh and another v. United India Insurance Company Limited Goryana and others, (2015) 177 PLR 578 : 2015 ACJ 2502***, wherein a licence issued by an authority in Canada, without the requisite endorsement or authorisation of a competent authority in India, was held insufficient to constitute a valid driving licence for driving a vehicle in India.

22. The appellant has not shown that the Australian licence produced by him fulfilled the statutory requirements applicable to a foreign national or a person temporarily visiting India, or that it was accompanied by a valid international driving permit recognised in India. The Tribunal, therefore, committed no error in holding that the appellant was not possessing a valid and effective driving licence at the time of the accident.

Recovery rights

23. Once it is established that the offending vehicle was driven by a person who did not possess a valid and effective driving licence, the insurer is entitled to avoid its contractual obligation to indemnify the insured, subject to its statutory obligation towards the third-party victims.

24. In ***National Insurance Company Limited v. Swaran Singh and others, (2004) 3 SCC 297***, the Hon'ble Supreme Court held that, notwithstanding the breach of a policy condition, the insurer may be directed to satisfy the award in favour of a third-party claimant and thereafter recover the amount from the person liable. The principle has been reiterated in ***Shamanna and another v. Divisional Manager, The Oriental Insurance Company Limited and others, (2018) 9 SCC 650.***

25. The award directing the insurer to pay the compensation to the claimants in the first instance protects the statutory rights of the third-party victims. The corresponding liberty granted to the insurer to recover

the amount from the persons responsible for the breach does not suffer from any legal infirmity.

26. The appellant was the person, who drove the vehicle without possessing a licence valid in India. His direct liability as the driver and tortfeasor is independent of the owner's obligation under the contract of insurance. He cannot seek immunity merely because the owner also failed to ensure that the vehicle was entrusted to a duly licensed person.

27. Consequently, neither the appellant's subsequent acquittal in the criminal case nor the production of the Australian domestic driving licence furnishes any ground to interfere with the recovery rights granted to the insurer.

28. In view of the foregoing discussion, no illegality or perversity is found in the findings recorded by the Tribunal. The appeal is, accordingly, dismissed.

29. It is clarified that the dismissal of the appeal shall not affect the right of the claimants to receive or retain the compensation awarded to them. The Insurance Company shall remain liable to satisfy the award in the first instance and shall be entitled to recover the amount in accordance with the directions contained in the award.

30. All pending miscellaneous applications, if any, also stand disposed of.

(DEEPAK GUPTA)
JUDGE

07.09.2026
Neetika Tuteja

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No

Uploaded on.: 07.09.2026