



2025:DHC:7360



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 01.08.2025***

+ **MAC.APP. 796/2013**

UNITED INDIA INSURANCE CO LTDAppellant

Through: Ms. Shikha Sapra, Advocate.

versus

VINOD KUMAR & ORSRespondents

Through: Mr. S.N. Parashar & Mr. Ritik Singh,
Advocates for R-1.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. At the outset, learned Counsel for the Respondent No.1/Claimant points out that the sum of Rs.2.77 lacs, that was set out in paragraph 2 of the order dated 29.07.2025, was paid to the Respondent No.2/Owner of the vehicle and was not paid to the Respondent No.1/Claimant.

1.1 Learned Counsel for the Appellant/Insurance Company concurs with this contention and submits that Rs.2.77 lacs was paid by the Appellant to Respondent No.2/Owner.

2 Paragraph 2 of the order dated 29.07.2025 is accordingly corrected.

3. The present Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 impugning the award dated 24.09.2012 passed by the learned Presiding Officer, MACT, South-01, Saket Courts, New Delhi [hereinafter referred to as "Impugned Award"]. By the Impugned Award, the compensation amount in the sum of Rs. 1,14,930/- along with interest at



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the rate of 7.5% per annum was awarded to the Respondent No. 1/Claimant.

4. Briefly the facts are that on 12.12.2006, an accident took place between two cars, one bearing No. DL2CM-7380 being driven by the Respondent No.1/Claimant and one bearing No. DL9CC-6557 being driven by Mr. Aman Puri, which is owned by the Respondent No.2/Owner. While the driver of the first car, Mr. Aman Puri expired, the Respondent No.1/Claimant sustained injuries as a result thereof, and Respondent No.2 filed a claim for an 'own damage' claim in respect of the vehicle which was insured with the Appellant/Insurance Company.

4.1 The Respondent No.1/Claimant also filed a claim, which was contested by the Respondent No.2/Owner as well as the Appellant/Insurance Company. At the time of filing this claim dated 11.09.2007, the driving licence was made available to the Appellant/Insurance Company. The investigation conducted by the Insurance Company however revealed that the driving licence was not issued by the licensing authority.

5. As stated above, the learned Tribunal awarded compensation to the Respondent No.1/Claimant and gave a finding that the Respondent No.2/Owner exercised due diligence while hiring the driver and thus the Insurance Company cannot be absolved of its liability.

6. The challenge in the present Appeal is in view of the fact that the Appellant/Insurance Company has not been granted recovery rights against the Respondent No.2/Owner. Learned Counsel for the Appellant/Insurance Company submits that there is no challenge on the quantum of the Impugned Award but only to the non-grant of recovery rights against the Respondent No.2/Owner of the vehicle.



7. By an order dated 02.05.2014, the service of Respondent No.2/Owner was effected by publication. There has been no appearance thereafter on behalf of the Respondent No.2/Owner, the Respondent No.2/Owner.

8. None appears for the Respondent No.2/Owner today as well.

9. Learned Counsel for the parties submit that the matter has been pending for the last several years and it would be in the interest of the justice that if the matter is taken up for hearing today. According, the matter is taken up for hearing and disposal today.

10. Learned Counsel for the Appellant submits that the challenge by the Appellant/Insurance Company is limited to the fact that the driver was not holding a valid driving licence [Ex. R1W1/3] and thus the Insurance Company is not liable to pay compensation or to indemnify the Respondent No.2/Owner.

11. Learned Counsel for Respondents on the other hand submit that this aspect has already been settled in the judgments of the Supreme Court in *National Insurance Co. Ltd. v. Swaran Singh & Ors.*¹ and *United India Insurance Co. Ltd. v. Lehru & Ors.*² It is submitted that the obligation of an owner *qua* a driver would be limited to the extent that is referred to in these Judgments.

12. This aspect of the matter was also examined by the learned Tribunal by the Impugned Award. The learned Tribunal found that before engaging the driver, the owner had seen its competence to drive and as well as taken photocopy of his driving licence. Thus, the learned Tribunal held that the

¹ (2004) 3 SCC 297

² AIR 2003 SC 1292



Respondent No.2/Owner had exercised due diligence and deliberately not committed breach or violation of the terms and conditions of the insurance policy. Given this finding, the learned Tribunal has held that the insurance policy cannot be absolved from its liability to indemnify the owner. The relevant extract Impugned Award in this behalf, is set out below:

“Liability:-

*15. On the question of liability, it is contended by the Ld. counsel for insurance company that erring driver was not holding a valid and effective driving licence on the date of accident, this amounts to breach of terms and conditions of policy, thus the insurance company is not liable to pay the compensation to the petitioner and indemnify the insured. In respect of this defence, the insurance company examined investigator Sh. R.B Singh, investigator of insurance company who tendered his evidence by way of affidavit as Ex. R2W21/1 and produced copy of verification report of driving license of erring driver from Mathura regarding driving license no.11852/MTR/06 of Aman Puri/driver and stated that driving license was not issued by licensing authority, Mathura. **On the other hand, counsel for owner submitted that owner at the time of employing the driver had seen the driving license and also taken a driving test. There was no reason for the owner to doubt the genuineness of the license. After carefully going through the evidence adduced by parties, from the statement of Rajinder Hitkari, Assistant Manager, M/s. Super Safeways Pvt. Ltd. it transpires that before engaging Sh. Aman Puri/driver (now deceased), the owner has seen his competency to drive and also taken a photocopy of driving license. Thus, it is evident that owner/respondent no.1 exercised due diligence and did not deliberately committed breach or violates the terms and conditions of insurance policy therefore, insurance company cannot absolve its liability to indemnify owner and to pay compensation to petitioner.**”*

[Emphasis Supplied]

12.1 It is not disputed that the driver of the offending vehicle, one Mr. Aman Puri, expired during the accident while the Respondent No.1/Claimant suffered injuries in the accident.

13. Learned Counsel for the Appellant/Insurance Company has reiterated



its contention that since the driving licence [Ex. R1W1/3] was found to be fake, the Appellant/Insurance Company cannot be held liable. Learned Counsel for the Respondent No.1, on the other hand, submits that in view of the settled law, the Impugned Award does not suffer from any infirmity.

14. The record reflects that the Authorized Representative of the Respondent No.2/Owner appeared as a witness and deposed [Ex. R1W1] that the driver of the other vehicle had a valid driving licence. The Respondent No.2/Owner had also contended that the deceased driver of the vehicle was the son of the Director of the Respondent No.2/Owner and they had examined his licence priorly.

15. The Supreme Court in *Lehru* case has discussed the aspect of obligation of an owner under Section 149(2)(a)(ii) of the Motor Vehicles Act, 1988 [hereinafter referred to as “MV Act”] and has held that the owner is required to check the driving licence of the driver, and if on the face of it, the driving licence looks genuine, the owner is not expected to find out that the licence in fact has been issued by a competent authority or not. It has further been held that once the owner has satisfied himself that the driver has a licence and is driving competently, there would be no breach under this sub-section. The Insurance Company could then not be absolved of its liability. The Supreme Court has further held that if ultimately the licence turns out to be fake, the insurance company would continue to remain liable unless they were able to prove that the insured was aware of the fake licence. The relevant extract of the *Lehru* case is below:

“20. When an owner is hiring a driver he will therefore have to check whether the driver has a driving licence. If the driver produces a driving licence which on the face of it looks genuine, the owner is not expected to find out whether the licence has in fact been issued by a”



competent authority or not. The owner would then take the test of the driver. If he finds that the driver is competent to drive the vehicle, he will hire the driver. We find it rather strange that insurance companies expect owners to make enquiries with RTOs, which are spread all over the country, whether the driving licence shown to them is valid or not. **Thus where the owner has satisfied himself that the driver has a licence and is driving competently there would be no breach of Section 149(2)(a)(ii).** The insurance company would not then be absolved of liability. **If it ultimately turns out that the licence was fake, the insurance company would continue to remain liable unless they prove that the owner/insured was aware or had noticed that the licence was fake and still permitted that person to drive.** More importantly, even in such a case the insurance company would remain liable to the innocent third party, but it may be able to recover from the insured. This is the law which has been laid down in *Skandia [(1987) 2 SCC 654]*, *Sohan Lal Passi [(1996) 5 SCC 21 : 1996 SCC (Cri) 871]* and *Kamla [(2001) 4 SCC 342 : 2001 SCC (Cri) 701]* cases. We are in full agreement with the views expressed therein and see no reason to take a different view.”

[Emphasis Supplied]

16. This has been reiterated by the Supreme Court in ***Swaran Singh*** case. It was held by the Supreme Court that unless the Insurer can prove that the owner of the vehicle was guilty of negligence and failed to exercise due care while hiring a driver, an owner cannot be made liable. The relevant extract is below:

“Summary of findings

110. The summary of our findings to the various issues as raised in these petitions is as follows:

*(i) Chapter XI of the Motor Vehicles Act, 1988 **providing compulsory insurance of vehicles against third-party risks is a social welfare legislation to extend relief by compensation to victims of accidents caused by use of motor vehicles.** The provisions of compulsory insurance coverage of all vehicles are with this paramount object and the provisions of the Act have to be so interpreted as to effectuate the said object.*

*(ii) **An insurer is entitled to raise a defence in a claim petition filed under Section 163-A or Section 166 of the Motor Vehicles Act, 1988, inter alia,** in terms of Section 149(2)(a)(ii) of the said Act.*

*(iii) **The breach of policy condition e.g. disqualification of the driver or***



invalid driving licence of the driver, as contained in sub-section (2)(a)(ii) of Section 149, has to be proved to have been committed by the insured for avoiding liability by the insurer. Mere absence, fake or invalid driving licence or disqualification of the driver for driving at the relevant time, are not in themselves defences available to the insurer against either the insured or the third parties. To avoid its liability towards the insured, the insurer has to prove that the insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the policy regarding use of vehicles by a duly licensed driver or one who was not disqualified to drive at the relevant time...

[Emphasis Supplied]

17. The driving licence of the deceased has been exhibited before the learned Tribunal. Other than the report issued by the investigator of the Appellant/Insurance Company, the Appellant/Insurance Company has not been able to show any ground to interfere with the Impugned Award. As discussed above, once an owner has satisfied himself that the driver has a licence and is driving competently, the owner is not expected to find out or undertake any kind of verification with a registration authority. If a subsequent investigation reveals a licence to be fake, the insurance company cannot be exonerated from its liability.

18. In view of the settled law, as discussed above, this Court finds no ground to interfere with the Impugned Award.

19. The Appeal is accordingly dismissed.

20. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

AUGUST 1, 2025/ ha