



2025:DHC:9103



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 09.10.2025

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MAC.APP. 1132/2013**SHRIRAM GENERAL INSURANCE CO LTD**Appellant

Through: Mr. Sameer Nandwani, Adv.

versus

MEENU CHAWLA & ORS

.....Respondents

Through: Mr. Nikhil Goyal, Adv. for R-6.

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 [hereinafter referred to as "MV Act"] impugning the award dated 21.08.2013 passed by the learned Presiding Officer, MACT, Dwarka Courts, Delhi [hereinafter referred to as "Impugned Award"]. By the Impugned Award, the compensation amount in the sum of Rs. 33,51,579/- along with interest at the rate of 7.5% per annum has been awarded.

2. The challenge in the present Appeal by the Appellant/Insurance Company is limited to the sole ground that no valid permit was available with the owner of the offending vehicle. Thus, it is contended that recovery rights should have been granted to the Appellant/Insurance Company.

3. The record shows that Respondent Nos.1 to 5 were proceeded with *ex parte* by order dated 26.10.2016.

4. Learned Counsel for Respondent No. 6/owner of the vehicle submits that no evidence was led by the Appellant/Insurance Company either before



the learned Tribunal or before this Court in this behalf. He further submits that the vehicle was duly permitted to ferry passengers and the same was being done.

5. Briefly the facts of the case are that on 29.11.2012, the deceased, Sh. Deepak Chawla, was traveling in an Innova car (DL-1YA-6862) along with Sh. Pawan Kumar and Sh. Deepak Sharma after attending a marriage in Alwar. Around 3:00 a.m., near Ashirwad Chowk, Sector-12, Dwarka, their vehicle was struck on the left side by a bus (DL-01-PB-9252) allegedly driven at a high speed of 100-120 km/h, resulting in the deceased being thrown out of the car and sustaining fatal injuries. The investigations revealed that the bus was being driven without a valid permit for Delhi, as its permit was restricted to Ghaziabad, Bulandshaher, and Gautam Budh Nagar.

6. The learned Tribunal framed the following issues for determining the compensation payable to the claimants:

“5. Following issues were framed for deciding the compensation payable to the claimants:-

(1) Whether Sh. Deepak Chawla S/o late Sh. B.D. Chawla sustained fatal injuries in a motor vehicle accident dtd 29/11/2012 due to rash or negligent driving of vehicle i.e., Bus bearing registration no, DL-1PB-9252 by R1, owned by R2 and insured by R-3?

(2) Whether the petitioners are entitled to claim compensation, if so, what amount and from whom?

(3) Relief.”

[Emphasis Supplied]

7. The Claimants examined their witnesses, however, and as stated above, no witness was produced by the Appellant/Insurance Company. Respondent No.6/Owner did not lead any evidence either.



8. The learned Tribunal found that the vehicle was being driven in a rash and negligent manner and after an investigation, a chargesheet was filed. The relevant extract of the Impugned Award is set out below:

“15. FIR was registered on the complaint of Sh. Pawan Kumar who had stated that the Respondent No. 1 driving the offending vehicle bus, at a fast speed, in a rash and negligent manner had hit their Innova Car from behind as a result of which the deceased was thrown out of Innova Car by breaking open the window of their car.

16. Same is the allegation of PW-3 Sh. Deepak Sharma.

17. Neither Respondent No. 1 filed any reply nor cross examined PW-3 nor entered in the witness box to prove his innocence.

18. Police after investigation in the matter has filed charge sheet against Respondent No. 1 under Section 279/338 of IPC which is also prima facie suggestive of negligence of the Respondent No. 1 in driving the offending vehicle in a rash and negligent manner.”

[Emphasis Supplied]

9. As stated above, there is no challenge by the Appellant/Insurance Company to the quantum of the compensation awarded. The challenge is limited to the grant of recovery rights. The learned Tribunal after examining the evidence on record found that the only objection raised by the Appellant/Insurance Company was that the offending vehicle's permit was valid only for Bulandshaher, Gautam Budh Nagar and Ghaziabad and since the vehicle was being plied in Delhi without permit. Reliance in this behalf was placed on the judgment passed by a Coordinate Bench of this Court in ***Mahender Singh v. Oriental Insurance Co. Ltd.***¹.

10. After examining the evidence on record, the learned Tribunal found that the Appellant/Insurance Company had not led any evidence in support of its contentions, and held as follows:

¹ MAC APP. 430/2010 dated 10.05.2012



“43. The next Question is which of the respondents is liable to pay this compensation to the claimants. The only objection of the insurance company was that the permit of the vehicle was for Bulandshaher, Gautam Budh Nagar and Ghaziabad whereas it was being plied in Delhi without any permit.

44. The statutory defence given to an insurance company is available when the vehicle is being plied "for a purpose not allowed by the permit".

45. Every violation of condition of permit is not sufficient to grant recovery rights or exoneration in favour of insurance company.

46. The Hon'ble High Court of Delhi in the case of Mahender Singh v. Oriental Insurance Co. Ltd. & Ors., MAC APP No. 430/12/sic: 430/10], judgment dated 10.05.12 has held that-

"User of a transport vehicle for the purpose not allowed by the permit would be using a goods vehicle as a passengers vehicle, a passengers vehicle as a goods vehicle, etc. and not each and every contravention of the condition of permit issued by the concerned Transport Authority".

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59. Present case also is not a case where the insured vehicle was being used for a "purpose" not allowed by the permit.

60. Therefore, there is no statutory defence available to the insurance company Compensation, therefore, will be paid by the insurance company.

61. Let compensation be deposited by the insurance company within 30 days from today under intimation to the claimants as well as to their counsel by registered post.

62. In case even after passing of 90 days insurance company fails to deposit this compensation, it shall be recovered by attaching its bank account with a cost of Rs. 5,000/- as per directions of the Hon'ble High Court of Delhi in the case of New India Assurance Co. Ltd. v. Kashmere Lal & Ors. 2007 ACJ 688”

[Emphasis Supplied]

11. The Coordinate bench of this Court in the case of ***Oriental Insurance Co. Ltd. v. Pooja Sharma & Ors.***², observed that although the Respondents did not possess a valid permit to ply the vehicle in Delhi, such a violation did

² 2015 SCC OnLine Del 11313



not amount to a fundamental breach of the terms of the insurance policy so as to disentitle the policy holder. Relying on the judgement in *National Insurance Co. Ltd. v. Shashi Goel & Ors.*³, it was held that not every violation of permit conditions entitles the insurer to recovery rights. Only when the vehicle is used for a purpose not allowed by the permit - such as using a passenger vehicle for plying goods or *vice versa* - can such a breach be termed fundamental.

11.1 In the present case, no evidence was led by the Appellant/Insurance Company to show that the vehicle was used for any purpose other than that permitted. Hence, the absence of a permit for Delhi did not constitute a fundamental breach, and recovery rights were rightly denied to the Appellant/Insurance Company. The relevant extract of the *Pooja Sharma* case is set out below:

“10. The reason for seeking recovery rights is that respondents No. 4 and 5 were not having valid permit to ply the offending vehicle in Delhi when the accident was caused which amounts to fundamental breach of terms and conditions of permit. This issue has come up for consideration before a Coordinate Bench of this Court in MAC APP. No. 282/2007 titled as The National Insurance Co. Ltd. v. Shashi Goel decided on 13.02.2015 wherein it was held as under :-

7. As far as driving of TSR only by the permit holder being a condition of the permit is concerned, the violation of terms and conditions of the permit not always amounting to violation of Section 149(2)(i)(c) of the Motor Vehicles Act, 1988. This issue was dealt with at great length by me in Mahender Singh v. Oriental Insurance Company Limited MAC App. 430/2010 decided on 10.05.2012. Paras 7 to 10 of the said judgment are extracted hereunder:

“7. Can it be said that the Insurance Company would be able to avoid liability if the vehicle is not kept clean or the driver is not wearing the uniform? It is not each and every

³ 2015 SCC OnLine Del 7503



condition of permit contravention of which would allow the Insurance Company to avoid the liability. On the other hand, a close reading of the Clause (c) to Section 149(2)(i)(a) would show that it is only the user of the transport vehicle for the purpose not allowed by the permit would enable the Insurance Company to defend the action to satisfy an award in a motor accident where the risk is covered by a policy obtained under Section 147 of the Act.

8. The interpretation of contravention of condition of permit envisaged under Section 66 of the Act and the contravention of condition of permit with respect to the purpose for which the vehicle may be used came up for consideration before the Supreme Court in State of Maharashtra v. Nanded-Parebhani Z.L.B.M.V. Operator Sangh (2000) 2 SCC 69 albeit in a different context. In the said case, the police had seized certain vehicles for carrying passengers in excess of the numbers permitted by the condition of permit issued by the Transport Authority. The action was challenged by the Association of Transporters by virtue of a writ petition before the Aurangabad Bench of Bombay High Court. The High Court analyzed the different provisions of the Motor Vehicles Act, 1988 and the Rules framed thereunder and on consideration of the same came to the conclusion that it is not each and every violation of the condition of the permit which would authorize the seizure and detention of the vehicle under Section 207(1) of the Act. It was held that it was only when the condition of permit relating to the route on which or the area in which or the purpose for which the vehicle was used, is violated, the vehicle could be seized by the Authorities. The Appeal filed by the State of Maharashtra was dismissed by the Supreme Court. The contention raised on behalf of the State of Maharashtra that carrying passengers more than prescribed by the permit could be construed to be violation, was rejected. The Supreme Court relied upon the report in *Kanailal Sur v. Paramnidhi Sadhu Khan* (1958) 1 SCR 360 and held as under : -

"If the words used are capable of one construction only then it would not be open to the Courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act". The intention of the legislature is required to be gathered from the language used and, therefore, a



construction, which requires for its support with additional substitution of words or which results in rejection of words as meaningless has to be avoided. Bearing in mind, the aforesaid principles of construction of statute and on examining the provisions of Section 207 of the Act, which has been quoted earlier, we have no doubt in our mind that the police officer would be authorised to detain a vehicle, if he has reason to believe that the vehicle has been or is being used in contravention of Section 3 or Section 4 or Section 39 or without the permit required under Subsection (1) of Section 66 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used. In the case in hand, we are not concerned with the contravention of Section 3 or Section 4 or Section 39 or Sub-section (1) of Section 66 and we are only concerned with the question of contravention of the condition of permit. Reading the provisions as it is, the conclusion is irresistible that the condition of permit relating to the route on which or the area in which or the purpose for which the vehicle could be used if contravened, would only authorise the police officer to detain the vehicle and not each and every condition of permit on being violated or contravened, the police officer would be entitled to detain the vehicle. According to the learned Counsel, appearing for the State of Maharashtra, the expression **"purpose for which the vehicle may be used" could be construed to mean that when the vehicle is found to be carrying passengers more than the number prescribed in the permit, the purpose of user is otherwise. We are unable to accede to this contention as in our opinion, the purpose would only refer to a contingency when a vehicle having a permit of stage carriage is used as a contract carriage or vice versa or where a vehicle having a permit for stage carriage or contract carriage is used as a goods vehicle and vice versa. But carrying passengers more than the number specified in the permit will not be a violation of the purpose for which the permit is granted. If the legislature really wanted to confer power of detention on the police officer for violation of any condition of the permit, then there would not have been the necessity of adding the expression "relating to the route on which or the area in which or the purpose for which the vehicle may be used". The user of the aforesaid expression cannot be ignored nor can it be said to be a tautology. We have also seen the Form**



of permit (From P.Co. T.), meant in respect of a tourist vehicle, which is issued under Rule 72(1)(ix) and Rule 74(6) of the Maharashtra Motor Vehicles Rules, 1989. On seeing the different columns, we are unable to accede to the contention of the learned Counsel appearing for the State of Maharashtra, that carrying passengers beyond the number mentioned in Column 5, indicating the seating capacity, would be a violation of the conditions of permit relating to either the route or the area or the purpose for which the permit is granted. In this view of the matter, we see no infirmity with the conclusion arrived at by the High Court in the impugned judgment and the detention of the vehicles has rightly been held to be unauthorised and consequently, the compensation awarded cannot be said to be without jurisdiction.....

9. Although, the interpretation of Section 207 was done by the Supreme Court in a different context, yet, the same would apply to Clause (c) to Section 149(2)(a)(i) of the Act.

10. Thus, the user of a transport vehicle for the purpose not allowed by the permit would be using a goods vehicle as a passenger vehicle, a passenger vehicle as a goods vehicle, etc. and not each and every contravention of the condition of permit issued by the concerned Transport Authority. Thus, simply because the vehicle was driven by a person other than the permit holder cannot be said to be a user of the transport vehicle for the purpose not allowed by the permit under which the vehicle was used.

11. The claim of the appellant/Oriental Insurance Company Ltd. has been examined in the light of above referred legal position, I am of the considered view that the breach said to be proved against respondents No. 4 and 5 does not fall in the category of fundamental breach of terms and conditions so as to entitle the insurance company to have recovery rights in the matter.

12. The appeal is dismissed.”

[Emphasis supplied]

12. A similar view has been taken by the High Court Punjab and Haryana at Chandigarh in the case of ***Oriental Insurance Company Ltd. v. Banto Devi & Ors.***⁴. In this case the Court observed that the Insurance Company had

⁴ 2006 SCC OnLine P&H 2223



alleged that the bus was overloaded and was being plied outside its permitted area; however, no evidence was produced to prove these claims. The learned Tribunal rightly held that mere assertions without supporting proof cannot absolve the insurer of liability. It was further observed that even if the vehicle was operated beyond Delhi, such use did not amount to a fundamental breach of the permit conditions. The appellate court found no error in the Tribunal's reasoning and upheld that, in the absence of led evidence, the insurer's defence could not be sustained. It is apposite to extract the relevant paragraph of the *Banto Devi* case below:

“10. In para 9 of the award of the learned Tribunal has specifically noticed the aforesaid two contentions. It has been noticed that although the plea was taken by the Insurance Company that the bus was overloaded but no evidence to support the aforesaid plea had been led by it. Consequently, it has been held that a mere plea taken by the Insurance Company, without any evidence in support thereof, could not be accepted. It has also been noticed that simply because the bus in question had been approved for plying within the area of Delhi and it was being driven outside Delhi, would not be a ground to absolve the Insurance Company of its liability.

11. I do not find any justification to differ with the reasoning adopted by the learned Tribunal.

12. Nothing has been pointed out by the learned Counsel, during the course of arguments, that the learned Tribunal has taken any view contrary to the record. A vague attempt has been made by the learned Counsel to rely upon F.I.R, which was required on account of the accident. In my considered view, the narration of some facts in the aforesaid F.I.R. cannot advance the case of the appellant Insurance Company in any manner in the absence of any evidence led by the Insurance Company. The pleas taken by the Insurance Company before the Tribunal cannot be accepted as no evidence in support thereof was led.”

[Emphasis Supplied]

13. As stated above, there is no evidence led by the Appellant/Insurance Company before this Court either. Accordingly, and in view of what is stated above, the challenge to the Impugned Award cannot be sustained.



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14. In view of the foregoing, the Appeal is dismissed.

15. Learned Counsel for the Appellant/Insurance Company submits that since the amounts have already been paid to the Respondent/Claimants, the Registry be directed to release statutory amount deposited.

15.1 Accordingly, the amounts deposited by the Appellant/Insurance Company may be released to the Appellant/Insurance Company inclusive of interest accrued upto date.

16. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

OCTOBER 9, 2025/r