



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NOS. OF 2026
(Arising out of SLP(C) Nos.6743-6744 of 2023)

RELIANCE GENERAL INSURANCE COMPANY LTD.

...APPELLANT(S)

VERSUS

OM PARKASH & ORS.

...RESPONDENT(S)

J U D G M E N T

SANJAY KAROL, J.

1. Leave Granted.
2. The appellant-insurer is aggrieved by the fastening of liability upon it by the High Court in terms of the impugned judgment dated 14th September 2022 passed in FAO No.1049 of 2016 and FAO No.8517 of 2015 by the High Court of Punjab and Haryana, Chandigarh, reversing the finding of the Motor Accidents Claim Tribunal, Panipat¹ though granting compensation to the claimants but directing the respondents nos. 1 and 2, namely, Om Prakash (driver of the offending vehicle) and Rajinder Singh (owner of the offending vehicle), to pay the amount as awarded. The Tribunal held the appellant-insurer not liable to pay

¹ MACT Case No. 116 of 2012 / Tribunal

the same.

3. The accident in question took place on 14th October, 2009 when the offending vehicle hit the two-wheeler being driven by the claimant. The aspect of rash and negligent driving is not in dispute. The reason why the Tribunal held only respondents 1 and 2, and not respondent no.3 before it to be liable is that at the time of the accident the driver did not possess a valid license. The total amount quantified as compensation, payable to the claimants, is Rs.86,95,947/- along with 7.5% interest. There was a further stipulation that if the amount was not paid within two months, interest would be at the rate of 9% thereafter. On appeals filed by the claimant, driver, and the owner, the High Court took a different view and held that the driver did indeed have a valid license and, as such, the appellant-insurer herein would be liable to pay compensation. The total amount in the High Court's computation was Rs.1,08,08,909/- with 8% interest.

4. The Tribunal found a contradiction between the statement of RW3 Shailendra Pal Singh, who is the Motor Licensing Officer, Northwest, Wazirpur, Delhi, and the document produced by him. He deposed that a license had been issued to Om Prakash on 22nd June 2007, which was valid till 21st June 2010 for the category of vehicle i.e. Motorcycle and HTV. However, the record produced by him is said to have contradicted this statement since the extract produced did not match the dates. The Tribunal also took note of the testimony of one Gopal Krishan RW1, Dealing Assistant, Transport Department, Wazirpur Authority, who deposed categorically, that Om Prakash did not have a license.

5. However, on the very same count, the High Court held that the driving license copy which was produced, showed it to be renewed as on 22nd June 2007 and valid up to 21st June 2010. The testimony of RW3 was referred to and so was the communication from the Motor Licensing Office of RW3, that due to some technical error at the time of data transfer to the outsourced company, there was some loss of data. Therefore, on the basis of the statement of RW3, it was certified that the driving license of Om Prakash stood renewed for the relevant period.

The relevant extracts of the Tribunal's reasoning as also the High Court's are placed sequentially as under:

The Tribunal:

“

36.Now, it is to be seen as to who is responsible for compensating the claimant.0

37.RW.1 Gopal Krishan, Dealing Assistant, Transport Department Wazirpur Authority, Delhi, has proved the driving licence of the respondent no.1 Ex.R4 on record. This witness has further proved the reports Ex.R6 and Ex.R7 supplied under the RTI Act. He has deposed that their licencing authority has issued heavy driving licence w.e.f. 25.08.2010 to 24.08.2013 and from 06.02.2006 to 21.06.2007 for private vehicle. He further deposed that as per reports Ex.R6 and Ex.R7, driver Om Parkash was not having a driving licence to drive the vehicle on 14.10.2009.

38.RW.2 Raj Singh, Clerk, Transport Department, Rohini, Sector-16, Delhi has testified that he has brought the summoned record of driving licence no.1119920103408 in the name of Om Parkash son of Narain Dutt. Said driving licence is valid w.e.f. 03.04.1992 to 03.04.1996 and the same is issued w.e.f. 24.08.2013 to 23.08.2016 for Transport vehicle/motor-cycle/HTV. He further deposed that this licence is renewed from 06.02.2006 to 21.06.2007 from their authority. He further proved the extracts report of their authority Ex.RW2/A to Ex.RW2/C. He further admitted that the licence in question is not covered the date of accident dated 14.10.2009, as it was not renewed on that period from their authority.

39.RW.3 Shailendra Pal Singh, Motor Licencing Officer, North West-1, Wazirpur, Delhi. This witness has brought the summoned record of driving licence no.C08062001246212 in the name of Om Parkash son of Narain Dutt. As per their record, said licence has been issued on 22.06.2007 and valid upto 21.06.2010 and the same is meant for motor-cycle and HTV. This witness has proved the extract of record Ex.RW3/A. However, the version given by this witness regarding validity of the licence w.e.f. 22.06.2007 to 21.06.2010 is not corresponding with the extract of record Ex.RW3/A, produced by him. Hence, this contrary oral evidence to the extent of validity of licence cannot be relied upon. During cross-examination, this witness has proved the verification report dated 08.05.2015 prepared by him Ex.RW3/B which consists of Ex.RW3/C to Ex.RW3/E. He further proved the reply submitted by him to the Court Ex.RW3/F.”

The High Court

“10.1 ...The Motor Licencing Officer was summoned who deposed that the driving licence was not renewed between 2007 to 2010, however,

thereafter the driver has produced a communication Ex.RW3/B from the office of Motor Licensing Office, North West Zone, Wazirpur, Delhi, wherein it has been stated that due to some technical error, which occurred at the time of transfer to an outsource company i.e. from HCL to DIMTS, there was some loss of data. It has been certified that the licence of Sh. Om Parkash continued to be renewed between the year 2007 to 2010.

...

The aforesaid driving licence has been proved by RW3-Sh. Shailender Pal Singh, Motor Licensing Officer, North West-I, Wazirpur, Delhi. He was examined as a Court witness. He categorically stated that the record of renewal of the driving licence was previously not available at the level of the Zonal office and he has obtained the same from Central Agency, NIC which is maintaining the central server of Transport Department (Headquarter). He has stated that the NIC is the only competent authority to bring out the old record from the computer. He is categorical that the driving licence in favour of Sh. Om Parkash son of Sh. Narayan Dutt was issued on 22.06.2007 which was valid upto 21.06.2010. He has also proved Ex.R7 issued by Transport Department, Government of National Capital Territory of Delhi with respect to driving licence issued to Sh. Om Parkash. In the aforesaid driving licence, it has been certified that the said driving licence was issued on 22.06.2007 which was valid upto 25.08.2010. Therefore, the licence was, again, renewed. In such circumstances, the Tribunal wrongly recorded a finding that since the licence was subsequently renewed with effect from 25.08.2010 by depositing penalty amount of Rs.200/-, therefore, there was no valid driving licence in favour of the driver on the relevant date of accident. RW3-Sh. Shailender Pal Singh, Motor Licensing Officer, North West-I, Wazirpur, Delhi, has categorically stated that the information/data for renewal of the driving licence had to be retrieved by National Information Centre(NIC) because there was some change in the agency responsible for data entry. It has also come on record that the Licensing Authority, Ashok Vihar, subsequently merged in Licensing Authority, Wazirpur. RW3-Sh. Shailender Pal Singh, is a Motor Licensing Officer, who is an official of the Delhi Transport Department. The correctness of his statement on the basis of the official record could not be ordinarily doubted."

6. Hence, this appeal is before us.

7. The limited issue to be examined is whether Om Prakash, the driver of the offending vehicle, as on the date of the accident, possessed a valid driving license or not. If the answer is in the affirmative, the High Court judgment would be affirmed, or if it is in the negative, then the order of the Tribunal would have to be upheld.

8. The relevant provisions of the MVA defining a driver's license; the need thereof; and the responsibility of the owner of the vehicle, should they allow a person not possessing such license to drive their vehicle, are as follows:

“2 (10) “driving licence” means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive, otherwise than as a learner, a motor vehicle or a motor vehicle of any specified class or description

CHAPTER II LICENSING OF DRIVERS OF MOTOR VEHICLES

3. Necessity for driving licence.—(1) No person shall drive a motor vehicle in any public place unless he holds an effective driving licence issued to him authorising him to drive the vehicle;...

5. Responsibility of owners of motor vehicles for contravention of sections 3 and 4.—No owner or person in charge of a motor vehicle shall cause or permit any person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle.”

9. Although deciding a dispute regarding recruitment and its conditions, this court in *Telangana State Level Police Recruitment Board v. Penjarla Vijay Kumar*², made some pertinent observations regarding the importance of driving licenses as follows:

“32... It cannot be lost sight of or denied that driving is not merely a qualification on paper but also involves hands-on experience coupled with regular practice. A lack of practice may hinder a person's capability of being able to drive a vehicle...”

33. ...The theory that once a licence is renewed, even after a gap, the renewal would operate from a back date implying that the licence was continuing and valid even for and during the interregnum cannot be countenanced...”

(emphasis supplied)

10. It is undisputed that a driving license is an official document that can only be issued by the competent authority, subject to the applicant meeting all requirements. When the document is itself in question, it only stands to reason that the official authority will produce the records pertaining to the license in question, either putting to rest questions about its validity or establishing conclusively that the document so relied upon by the driver is in fact not valid.

² 2025 SCC OnLine SC 2915

To put it differently, to prove an official document, official records as per the procedure given in the Indian Evidence Act, 1872³ are required to be produced.

11. While that is the general proposition of law, the law does recognise that it is not always possible for primary evidence to be produced and as such permits such documents to also be proved through secondary evidence. Sections 61 to 64 of the IEA are relevant for the present purposes.

11.1 A Constitution Bench of this Court in *Neeraj Dutta v. State (NCT of Delhi)*⁴, while dealing with a question concerning the Prevention of Corruption Act, 1988, discussed them as follows:

“60. Section 61 deals with proof of contents of documents which is by either primary or by secondary evidence. When a document is produced as primary evidence, it will have to be proved in the manner laid down in Sections 67 to 73 of the Evidence Act. Mere production and marking of a document as an exhibit by the court cannot be held to be due proof of its contents. Its execution has to be proved by admissible evidence. On the other hand, when a document is produced and admitted by the opposite party and is marked as an exhibit by the court, the contents of the document must be proved either by the production of the original document i.e. primary evidence or by copies of the same as per Section 65 as secondary evidence. So long as an original document is in existence and is available, its contents must be proved by primary evidence. It is only when the primary evidence is lost, in the interest of justice, the secondary evidence must be allowed. **Primary evidence is the best evidence and it affords the greatest certainty of the fact in question. Thus, when a particular fact is to be established by production of documentary evidence, there is no scope for leading oral evidence. What is to be produced is the primary evidence i.e. document itself.** It is only when the absence of the primary source has been satisfactorily explained that secondary evidence is permissible to prove the contents of documents. Secondary evidence, therefore, should not be accepted without a sufficient reason being given for non-production of the original.”

(emphasis supplied)

³ IEA

⁴ (2023) 4 SCC 731

11.2 Recently, this Court in *Tharammel Peethambaran v. T. Ushakrishnan*⁵, summarised principles regarding the admissibility of secondary evidence:

“20.1 The fundamental principle of the Indian Evidence Act is that facts have to be established by primary evidence. **Section 64 mandates that documents must be proved by primary evidence, which is considered the “best evidence”. Primary evidence is the rule, while secondary evidence is an exception admissible only in the absence of primary evidence.** A party is generally required to produce the best evidence available; so long as the superior evidence (the original) is within a party's possession or reach, they cannot introduce inferior proof (secondary evidence).

20.2 Before secondary evidence can be admitted, the party relying on it must lay a factual foundation. This involves two steps: **First, the party must prove that the original document actually existed and was executed. Secondly, the party must establish valid reasons as to why the original cannot be furnished.**

20.3 Secondary evidence is inadmissible until the non-production of the original is accounted for in a manner that brings the case within the specific exceptions provided in Section 65. If the original itself is found to be inadmissible through failure of the party who files it to prove it to be valid, the same party is not entitled to introduce secondary evidence of its contents.

20.4 Section 65 of the Evidence Act is exhaustive and states the specific circumstances under which secondary evidence is permissible. To introduce secondary evidence, a party must satisfy the conditions of one of the clauses (a) through (g) of Section 65.

20.5 Further, admitting a document as secondary evidence does not automatically prove its contents. The secondary evidence must be authenticated by foundational evidence showing that the alleged copy is, in fact, a true copy of the original. For instance, if a party wishes to introduce a photostat copy, they must explain the circumstances under which the copy was prepared and who possessed the original at the time the photograph was taken.

20.6 Mere admission of a document or making it an exhibit does not dispense with the requirement of proving it in accordance with the law. The court has an obligation to examine the probative value of the document and decide the question of admissibility before making an endorsement on the secondary evidence. If the foundational facts, such as the loss of the original or the explanation for its non-production, are not

⁵ 2026 SCC OnLine SC 169

established, the court cannot legally allow the party to adduce secondary evidence.

20.7 There is no requirement that an application must be filed to lead secondary evidence. While a party may choose to file such an application, secondary evidence cannot be ousted solely because no application was filed. It is sufficient if the party lays the necessary factual foundation for leading secondary evidence either in the pleadings or during the course of evidence.”

(emphasis supplied)

11.3 The conclusion that can be drawn in the present facts, on the basis of the law referred to above is that unless circumstances as enumerated in Section 65 of the IEA are pleaded, present and proved, an original document must be proved by primary evidence. If it cannot be so proved, it has to be established that the original document existed in the first instance and also as to why it cannot be proved by primary evidence.

12. Here, it is not a matter of dispute that Om Prakash had a driving license since 1992. What is in dispute is whether, at the relevant point of time of the accident, such a license stood renewed and was valid or not? Consideration of the evidence by the Tribunal reveals that it did not exist. RW1 and RW2 stated thus; in fact, even RW3, who produced documents, admits that the penalty (for renewal) for the period in question was paid by Om Prakash. We find it difficult to accept the version of the High Court which places reliance on a document (RW3/B), which Om Prakash had produced, allegedly sent by the Wazirpur Authority informing him of the gap in the data. The officer of the Authority has not produced any document recording the loss of data and the steps taken by the Authority to recover the same, or fill the gaps that have been caused thereby. What they could have shown, for instance, were the steps taken by the Authority in respect of other persons whose licenses stood allegedly renewed during this time, but as on date, data in respect thereto, does not exist. If RW3 could bring the file of Om Prakash to court to establish one thing, he could have easily established the data gap himself through official evidence. This was not done. It is not

evidence of such a quality that on the basis thereof, it can be assumed that all steps in law were taken and as such imputing liability upon the appellant, would be justified.

13. The letter dated 8th May 2015, Ex.RW3/B on which much reliance is placed by the driver reads as under:

**“OFFICE OF THE MOTOR LICENSING OFFICER (NWZ-I)
TRANSPORT DEPARTMENT, GOVT. OF DELHI
WAZIRPUR, DELHI**

MLO (NWZ-I)/WAZIRPUR/2015/349 DATED: 08.05.2015

To,

Sh. Om Prakash

S/o Sh. Narain Dutt

R/o C-105, Rajiv Nagar

Delhi-110085

**Sub: Regarding furnishing of record of Driving Licence No.
C-08062001244612.**

Sir,

This is in connection with your request letter dated 28/04/2015, whereby you have requested to provide the record of above stated license w.e.f. 2007 to 2015. In this connection, it is to inform you that upon scrutiny from the computer it has been revealed that your license earlier issued on 08/06/2001 for the category of Motor Cycle with gear and Transport vehicle (HMV), which was subsequently renewed and the current validity of license is upto 23/08/2016, as per the record for the period 2007 to 2010 is concerned the same is not available in this office due to the some technical error occurred at the time of transfer of outsource company from HCL to DIMTS. At the time of transfer of license some of the record belongs to HCL were could not be transferred in computer as per the version of system analysist of transport department. However, since your license continued to be renewed after the 2010 and still valid upto 23/08/2016. The confirm that during that period of 2007 to 2010 is not available in this office but you were holding the valid license in that intervening period. The non availability of record does not make is any suspicious that you were not holding the valid license at that time. This may be treated as valid license during the period of which the record of not available.

**MLO
(NWZ-I)”**

A perusal of the letter shows that it is dated 08.05.2015 and records that as on the said date the license of Om Prakash was valid till 2016, but the authority had no record of the status of his license between 2007 and 2010. As such, it was required

of him to produce the records from the authority for this time period. It was nowhere observed whether on the date of the accident, the license held by Om Prakash was valid or not. Apart from this document that alleged the gap in data and the oral statement of RW3, no official record corroborates this position.

14. There is an additional point. If the license of Om Prakash was valid throughout, as is the statement of RW3, what occasioned the payment of penalty is a gap that is unaddressed. RW3 stated in the cross-examination that:

“Licencing Authority has charged Rs.450/- as renewal fee as mentioned in Ex.RW3/A. Out of this amount of Rs.450/-, an amount of Rs.250/- is the renewal fee and Rs.100/- is the penalty for first year and Rs.50/- each has been charged for subsequent years. Licencing Authority has charged penalty from 06.02.2006 to 21.06.2007 on the basis of renewal from 25.08.2010 to 24.08.2013. The amount of penalty of Rs.200/- has been charged for the intervening period i.e. 21.06.2007 to 25.08.2010.”

Both the Tribunal and the High Court acknowledged this fact that a penalty has been paid, but only the Tribunal, in our view, takes this point to some sort of a conclusion. The High Court only mentions it, but immediately turns back to the statement of RW3 and treats it somewhat like the gospel.

15. When in question was an official document, and the law is that the certain circumstances have to be established before secondary evidence can be taken to prove the same, we fail to understand the undue importance which is placed by the High Court on the statement of RW3, more so, in view of the fact that the Tribunal has explicitly recorded there being a contradiction with documentary evidence RW3/A which is extracted as under:

License Details	
Application No. : 24838010	Application Date : 27/07/2010
Fee Receipt No. : RV-14125	Fee Receipt Date : 27/07/2010
Fee Amount : 450	Blood Group : U
License No. : DL-1119920103408	

Old License No.: C08062001246212	
TR Valid From : 25/08/2010	Valid To : 24/08/2013
NT Valid From : 06/02/2006	Valid To : 21/06/2007
Vehicle Class : MCYL TRANS	
Name : OM PRAKASH	
S/O : NARAIN DUTT	
Gender : M	Date Of Birth : 03/02/1974
Address : C 105, RAJIV NAGAR, DELHI	
Contact No.	Zone :

This document with which there is an alleged contradiction has not even been mentioned by the High Court, much less considered.

16. Here only we may add that the owner has not entered the witness box either to say whether on the date of the accident the driver had a valid license or not, or to say that he had taken steps to ensure that the driver's license was renewed after it had expired.

17. A question similar to the one in the present case arose in *Beli Ram v. Rajinder Kumar*⁶, to the effect that if a driving license which was valid at the time of taking the policy, has subsequently expired, does the responsibility of the insurer abate? It was concluded by a three-judge bench in the affirmative. In reaching this conclusion, the following observations are instructive:

“14. We are of the view that once the basic care of verifying the driving licence has to be taken by the employer, though a detailed enquiry may not be necessary, the owner of the vehicle would know the validity of the driving licence as is set out in the licence itself. It

⁶ (2022) 15 SCC 572

cannot be said that thereafter he can wash his hands off the responsibility of not checking up whether the driver has renewed the licence. It is not a case where a licence has not been renewed for a short period of time, say a month, as was considered in *Swaran Singh* [*National Insurance Co. Ltd. v. Swaran Singh*, (2004) 3 SCC 297 : 2004 SCC (Cri) 733] where the benefit was given to a third party by burdening the insurance company. The licence in the instant case, has not been renewed for a period of three years and that too in respect of commercial vehicle like a truck. The appellant showed gross negligence in verifying the same.”

(emphasis supplied)

Beli Ram supra had approved the judgment in *National Insurance Co. Ltd. v. Hem Raj*⁷, the observations whereof are relevant for us, given the *prima facie* similarity of circumstances:

“18. When an employer employs a driver, it is his duty to check that the driver is duly licensed to drive the vehicle. Section-5 of the Motor Vehicles Act provides that no owner or person in charge of a motor vehicle shall cause or permit any person to drive the vehicle if he does not fulfill the requirements of Section 3 and 4 of the Motor Vehicles Act. The owner must show that he has verified the license. He must also take reasonable care to see that his employee gets his license renewed within time. In my opinion, it is no defence for the owner to plead that he forgot that the driving license of his employee had to be renewed. A person when he hands his motor vehicle to a driver owes some responsibility to society at large. Lives of innocent people are put to risk in case the vehicle is handed over to a person not duly licensed. Therefore, there must be some evidence to show that the owner had either checked the driving license or had given instructions to his driver to get his driving license renewed on expiry thereof. In the present case, no such evidence has been led. In view of the above discussion, I am clearly of the view that there was a breach of the terms of the policy and the Insurance Company could not have been held liable to satisfy the claim.”

(emphasis supplied)

18. Following the dictum above, the appeal is allowed. The appellant insurer cannot be held liable to make good the award. The final burden shall be on both the employer and the driver. In the order issuing notice, we had directed that the amount as computed be released in favour of the claimants. In view of the above

⁷ 2011 SCC OnLine HP 4735

discussion, we hold the principle of ‘pay and recover’ to be applicable in this case. The appellant-insurer shall therefore be at liberty to take steps in accordance with law.

19. This Court cannot be oblivious to the fact that asking a driver or an owner to pay such a large amount is a humongous burden upon them. It may throw into disarray, their entire lives all because the driver and the owner did not take adequate precaution to ensure that there was no break in the validity of the driving license. Had that been done, the burden would not have fallen upon them, and the appellant-insurer would have been bound to honour the award. In our view, this underscores the importance of the driving license. It is a document that certifies the ability to drive on the road, and so it stands to reason that all drivers should have it.

20. The Ministry of Road, Transport and Highways, Government of India, as also the respective counterparts of the States should, we may suggest, undertake campaigns through all mediums such as awareness drives, social media, etc. to drive home this importance; introduce measures to ensure strict compliance; and also streamline the process of issuance/renewal of licenses. Other issues such as regulation of driving schools, the affordability thereof, and accessibility in terms of regional languages, when it comes to applications and tests, etc. also need urgent attention.

21. The appeals are accordingly allowed. All pending application(s), if any, shall stand disposed of.

.....J.
(SANJAY KAROL)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

**New Delhi;
July 30, 2026**