

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

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**Mac App No. 74/2022
&
Mac App No. 28/2021**

National Insurance Co. ltd.
National Insurance Co. ltd.

...Petitioner /Appellant(s)

Through: - Mr. Rajesh Kumar, Advocate

Vs.

Radha Devi and others.
Sham Lal and others.

...Respondent(s)

Through: - Mr. Mohinder Singh, Advocate
Mr. Ankesh Chandel, Advocate

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

**JUDGMENT
28.09.2026**

1. Through the medium of the present judgment, the aforesaid two appeals, arising out of the same road traffic accident, are proposed to be decided.
2. Claim Petition No. 74/Claim of 2015, titled *Radha Devi and another v. Mukther Hussain and others*, was filed by the parents of deceased Anil Kumar before the learned Motor Accidents Claims Tribunal, Jammu. The said claim petition arose out of a road traffic accident that took place on 21.01.2015 at about 8:15 p.m., when a van bearing registration No. JK02AL-9833, which was proceeding from Vijaypur to Jakh, was hit by a truck bearing registration No. JK02E-7593, which was being

driven rashly and negligently by its driver. On account of the said accident, the driver of the vehicle bearing registration No. JK02AL-9833, namely, Rakesh Kumar, also suffered fatal injuries, and his parents, wife and minor son filed another claim petition bearing No. 32/2015 before the Motor Accidents Claims Tribunal, Samba.

3. Both the aforesaid claim petitions were contested by the appellant-Insurance Company by filing its reply and one of the grounds urged by the appellant-Insurance Company before the aforesaid two Tribunals was that the driver of the offending vehicle bearing registration No. JK02E-7593, namely, Mukhter Hussain, respondent herein, was not holding a valid and effective driving licence at the relevant time.
4. In the claim petition filed by the dependents of deceased Anil Kumar, the learned Tribunal at Jammu, vide award dated 23.03.2022, held the claimants therein entitled to compensation of Rs. 13,19,600/- along with interest @ 7.5% per annum, whereas the learned Tribunal at Samba, vide impugned award dated 28.08.2020, held the dependents of deceased Rakesh Kumar entitled to compensation of Rs. 13,55,000/- along with interest @ 7% per annum.
5. Both the Tribunals below, while deciding the issue with regard to the validity of the driving licence of driver Mukhter Hussain, came to the conclusion that the appellant-Insurance Company has failed to prove the said issue. Accordingly, the contention of the appellant-Insurance Company that it was not liable to indemnify the insured in the present cases was turned down.

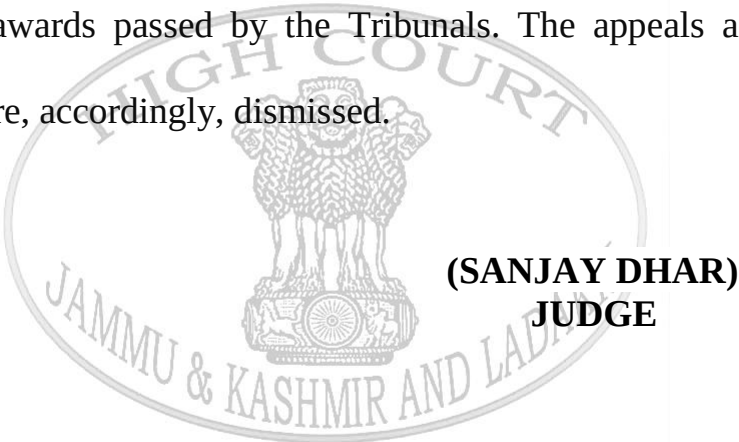
6. The appellant-Insurance Company has challenged both the impugned awards on the ground that there was sufficient evidence and material before the learned Tribunals below to establish that driver Mukhter Hussain was holding a fake driving licence. According to the appellant, the learned Tribunals erred in fastening the liability to satisfy the two impugned awards upon the appellant-Insurance Company.
7. I have heard learned counsel for the parties, perused the record of the Tribunals, the grounds of challenge and the impugned awards.
8. Upon examination of the evidence led by the parties in respect of the issue pertaining to the validity of the driving licence of driver Mukhter Hussain, it is revealed that, before the Tribunal at Jammu as well as before the Tribunal at Samba, the appellant-Insurance Company examined RW Abdul Latief Naik, Record Keeper in the office of the ARTO, Anantnag. On the basis of the record, the said witness deposed that driving licence No. 6373/MVD/A/J, issued on 26.12.2001, was issued in the name of Irshad Ahmad Bhat, son of Mohd. Usman Bhat, a resident of Tral, Pulwama, and not in the name of Mukhter Hussain. Before the learned Tribunal at Samba, the witness reiterated that the driving licence, photocopy of which was available on record, had not been issued by the Licensing Authority, Anantnag, and, therefore, the same was fake.
9. Before the learned Tribunal at Jammu, driver Mukhter Hussain was examined as a witness by the appellant-Insurance Company. The said witness while admitting that driving licence bearing No. 6373/MVD/A/J, copy whereof was shown to him, pertained to him, he

stated that he had not obtained the said driving licence after undergoing any driving test. However, during cross-examination, stated that he was in possession of another driving licence. During his re-cross-examination by learned counsel for the appellant-Insurance Company, he stated that he was in possession of two driving licences. The witness sought time to produce the second driving licence. His further cross-examination was deferred and he was given time to produce the second driving licence. He subsequently produced before the Tribunal a copy of driving licence, bearing No. JK0320060006373, issued by the ARTO, Doda, authorizing him to drive Light Motor Vehicles. The said driving licence was endorsed for transport vehicles and was valid up to 23.04.2022. The witness stated that the endorsement was made on the said driving licence after he had undergone the driving test and that the said endorsement was made in the year 2009.

10. It appears that the learned Tribunal at Jammu got the said driving licence verified from the concerned Licensing Authority and found the same to be genuine. On that basis, the learned Tribunal came to the conclusion that the respondent-driver was holding a valid and effective driving licence at the time of the accident.
11. From the aforesaid sequence of events, it comes to the fore that the offending driver, Mukhter Hussain, was in possession of two driving licences. One driving licence, purportedly issued by the Licensing Authority, Anantnag, was found to be fake, whereas the second driving licence, which he produced before the learned Tribunal, Jammu, was found to be genuine. In view of the material available on record, the

contention of the appellant-Insurance Company that the respondent-driver was not holding a valid and effective driving licence at the relevant time cannot be accepted. The driver may have contravened the provisions of Section 6 of the Motor Vehicles Act, for which he may be liable to be prosecuted and punished; but nonetheless, he was holding a valid and effective driving licence at the time of the accident. Therefore, the Tribunal was justified in arriving at a finding that there had been no violation of the terms and conditions of the policy of insurance, inasmuch as the driving licence of the offending driver was found to be genuine.

12. For the foregoing reasons, I do not find any ground to interfere with the impugned awards passed by the Tribunals. The appeals are without merit and are, accordingly, dismissed.



Jammu:
28.09.2026
Karam Chand

Whether the order is speaking:	Yes/No
Whether the order is reportable:	Yes/No