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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****FAO-2412-2006 (O&M)
Date of Decision : 06.11.2024****SUKHWINDER SINGH****....APPELLANT****VERSUS****PAPPI MEHTA AND ORS****....RESPONDENTS****CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Harsh Aggarwal, Advocate
for the appellant.

Mr. Ranvir Singh Mander, Advocate for
LRs No. (ii), (vi), (vii) and (viii) of respondent No. 2.

Mr. V. Ramswaroop, Advocate for respondent Nos. 11 and 12.

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SUDEEPTI SHARMA, J.

1. The present appeal has been preferred by the appellant-Sukhwinder Singh, who is the driver of the offending vehicle, against the award dated 01.12.2005 passed by the learned Motor Accident Claims Tribunal, Jalandhar (for short, 'the Tribunal') under Section 166 of the Motor Vehicles Act, 1988, whereby, an amount of compensation of Rs. 2,95,000/- along with interest @ 7% per annum was awarded to the claimant. However the liability was fastened upon the appellant-driver.

FACTS NOT IN DISPUTE

2. Brief facts of the case are that on 6.3.2004 at about 4:30 P.M., Brij Mohan was going along with his brother Balwinder Mohan on his scooter No. PB-08-AL-3429 was going from village Nangal Shama to their house. He was driving the scooter and when they reached near Chogitti Chowki, a jeep make Mahindra bearing registration No. PB-08-R-9910 which was being driven by the appellant-

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Sukhwinder Singh in a rash and negligent manner, came from Lamma Pind Chowk side. The appellant without blowing any horn struck the jeep against the scooter of the Brij Mohan Mehta, as a result of which he fell down and received multiple injuries on the various parts of his body. He was taken to Civil Hospital, Jalandhar and then to Satyam Hospital where he remained in coma for about 30 days. He remained admitted there from 6.3.2004 to 18.4.2004. The accident was caused by the appellant by driving the offending jeep in a rash and negligent manner. The injured Brij Mohan Mehta ultimately died on 15.7.2004 due to the injuries received by him in the accident. An FIR No. 52 was got registered against the appellant on 9.3.2004 at Police Station Division No.8 under Section 279, 337, 338 IPC. The deceased was 48 years old at the time of accident. He was the proprietor of M/s Vashav Karma Tools Industries and was earning Rs. 10,000/- per month.

3. Upon notice of the claim petition, respondents appeared and denied the factum of compensation.

4. From the pleading of the parties, the Tribunal framed the following issues:-

“1. Whether Brij Mohan received injuries and later on died due to accident which took place on 6.3.2004 at Chogitti Chowk, Jalandhar, due to rash and negligent driving of Jeep make Mahindra PB-08-R-9910, by its driver Sukhwinder Singh? OPP

2. Whether the claimant is entitled to the claim as prayed for, if so, to what extent and from whom? OPP

3. Whether the present petition is not maintainable? OPR

4. Whether driver was not holding a valid driving licence, if so, its effect? OPR

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5. *Whether the offending vehicle i.e. Jeep PB-08-R-9910 was not insured at the time of accident, if so, its effect? OPR*

6. *Relief."*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the tune of Rs.2,95,000/- alongwith interest @ 7% per annum. Hence the present appeal.

SUBMISSIONS OF THE COUNSELS OF THE PARTIES

6. The learned counsel for the appellant-driver contends that the liability of the driver has wrongly been fixed firstly on the ground that the vehicle was not insured and secondly that the driver was not having a valid driving licence, at the time of accident.

7. Per contra, learned counsel for the respondent – Insurance Company contends that the accident took place on 06.03.2004 and the policy Ex.R-2 was valid from 23.01.2003 to 22.01.2004, therefore, at the time of accident, the vehicle was not insured. He further contends that the driver was not having a valid driving licence, since in the licence word 'jeep' was not mentioned and he was driving jeep.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. The accident took place on 06.03.2004. The cover note was issued on 20.03.2003 and the date of the expiry of the insurance on the cover note is dated 22.03.2004. It is nowhere stated that the document of insurance policy is forged one. It is on record that this was issued to the appellant, and the vehicle was insured at the time of the accident i.e on 06.03.2004. So far as the validity of the insurance policy (Ex.R-2) is concerned, it is from 23.01.2003 to 22.01.2004 and the policy is dated 03.08.2005, which apparently shows that this document was

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prepared during the pendency of the claim petition. No insurance policy is valid beyond its expiry date. A perusal of the Insurance Policy shows that it covers the period from 23.01.2003 to 22.01.2004, yet the issuance date of the policy is dated 03.08.2005 i.e after a gap of nearly 1 year and 8 months of the expiry of the Insurance policy, which is not believable. If the insurance policies are issued after the expiry of the date of insurance policy, then the whole purpose of the policy would be defeated. This discrepancy indicates that the document may have been prepared by the insurance company to avoid the liability for paying the compensation. Thus, the argument of learned counsel for the respondent-Insurance Company is not acceptable to this Court and it is concluded that the vehicle was very much insured at the time of the accident, which is duly proved by cover note (which is on record).

10. So far as the issue regarding valid driving licence of the appellant is concerned, the learned Tribunal held that the appellant was not having any driving licence to drive a jeep and the driving licence was to drive the scooter or car only and, therefore, made the appellant liable to pay the compensation.

11. A perusal of the record shows that there is no dispute regarding authenticity of the driving licence and it is proved on record to be genuine driving licence.

12. Further driving licence is valid from 18.12.1997 to 14.06.2016 and the accident took place on 06.03.2004, therefore, the appellant had the valid driving licence on the date of the accident.

13. A reference to the judgment in **National Insurance Co. Ltd. v. Swaran Singh, (2004) 3 SCC 297** may, therefore be apposite. A three-judge bench of this Court noted that the liability of the insurance company in relation to the

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owner depends on several factors. The issue of lack of valid driving license was discussed as under:

"7. If a person has been given a licence for a particular type of vehicle as specified therein, he cannot be said to have no licence for driving another type of vehicle which is of the same category but of different type. As for example, when a person is granted a licence for driving a light motor vehicle, he can drive either a car or a jeep and it is not necessary that he must have driving licence both for car and jeep separately.

89. Section 3 of the Act casts an obligation on a driver to hold an effective driving licence for the type of vehicle which he intends to drive. Section 10 of the Act enables the Central Government to prescribe forms of driving licences for various categories of vehicles mentioned in sub-section (2) of the said section. The various types of vehicles described for which a driver may obtain a licence for one or more of them are: (a) motorcycle without gear, (b) motorcycle with gear, (c) invalid carriage, (d) light motor vehicle, (e) transport vehicle, (f) road roller, and (g) motor vehicle of other specified description. The definition clause in Section 2 of the Act defines various categories of vehicles which are covered in broad types mentioned in sub-section (2) of Section 10. They are "goods carriage", "heavy goods vehicle", "heavy passenger motor vehicle", "invalid carriage", "light motor vehicle", "maxi-cab", "medium goods vehicle", "medium passenger motor vehicle", "motor-cab", "motorcycle", "omnibus", "private service vehicle", "semi-trailer", "tourist vehicle", "tractor", "trailer" and "transport vehicle".

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In claims for compensation for accidents, various kinds of breaches with regard to the conditions of driving licences arise for consideration before the Tribunal as a person possessing a driving licence for "motorcycle without gear", [sic may be driving a vehicle] for which he has no licence. Cases may also arise where a holder of driving licence for "light motor vehicle" is found to be driving a "maxi-cab", "motor-cab" or "omnibus" for which he has no licence. In each case, on evidence led before the Tribunal, a decision has to be taken whether the fact of the driver possessing licence for one type of vehicle but found driving another type of vehicle, was the main or contributory cause of accident. If on facts, it is found that the accident was caused solely because of some other unforeseen or intervening causes like mechanical failures and similar other causes having no nexus with the driver not possessing requisite type of licence, the insurer will not be allowed to avoid its liability merely for technical breach of conditions concerning driving licence.

90. *We have construed and determined the scope of sub-clause (ii) of sub-section (2) of Section 149 of the Act. Minor breaches of licence conditions, such as want of medical fitness certificate, requirement about age of the driver and the like not found to have been the direct cause of the accident, would be treated as minor breaches of inconsequential deviation in the matter of use of vehicles. Such minor and inconsequential deviations with regard to licensing conditions would not constitute sufficient ground to deny the benefit of coverage of insurance to the third parties."*

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14. This Court in FAO-3947-2007 titled as '**The Oriental Insurance Company Ltd., Chandigarh versus Asha Devi and Others**' decided on 04.10.2024 held as under:-

*"10. I do not find any infirmity in the reasoning given by the learned Tribunal in rejecting the contention of the appellant/respondent No.2 i.e. Oriental Insurance Company, with respect to the possessing of the driving licence to drive scooter, motorcycle, car, jeep and tractor and not three-wheeler. The issue raised by the learned counsel for the appellant is no longer res-integra and decided by the Hon'ble Apex Court in the case of "**Mukund Dewangan vs. Oriental Insurance Company**" 2017(4) TAC 11, wherein it was held that when a driver is holding a licence to drive 'light motor vehicle', he is competent to drive a 'transport vehicle' of that category without specific endorsement to drive the transport vehicle. The relevant paras of the same are reproduced as under:-*

"46. Section 10 of the Act requires a driver to hold a licence with respect to the class of vehicles and not with respect to the type of vehicles. In one class of vehicles, there may be different kinds of vehicles. If they fall in the same class of vehicles, no separate endorsement is required to drive such vehicles. As light motor vehicle includes transport vehicle also, a holder of light motor vehicle licence can drive all the vehicles of the class including transport vehicles. It was pre-amended position as well the post amended position of Form 4 as amended on 28.3.2001. Any other interpretation would be repugnant to the definition of "light motor vehicle" in section 2(21) and the

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provisions of section 10(2)(d), Rule 8 of the Rules of 1989, other provisions and also the forms which are in tune with the provisions. Even otherwise the forms never intended to exclude transport vehicles from the category of 'light motor vehicles' and for light motor vehicle, the validity period of such licence hold good and apply for the transport vehicle of such class also and the expression in Section 10(2)(e) of the Act 'Transport Vehicle' would include medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle, heavy passenger motor vehicle which earlier found place in section 10(2)(e) to (h) and our conclusion is fortified by the syllabus and rules which we have discussed. Thus we answer the questions which are referred to us thus:

(i) 'Light motor vehicle' as defined in section 2(21) of the Act would include a transport vehicle as per the weight prescribed in section 2(21) read with section 2(15) and 2(48). Such transport vehicles are not excluded from the definition of the light motor vehicle by virtue of Amendment Act No.54/1994.

(ii) A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg. would be a light motor vehicle and also motor car or tractor or a road roller, 'unladen weight' of which does not exceed 7500 kg. and holder of a driving licence to drive class of "light motor vehicle" as provided in section 10(2)(d) is competent to drive a transport vehicle or omnibus, the

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gross vehicle weight of which does not exceed 7500 kg. or a motor car or tractor or road-roller, the "unladen weight" of which does not exceed 7500 kg. That is to say, no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class as enumerated above. A licence issued under section 10(2)(d) continues to be valid after Amendment Act 54/1994 and 28.3.2001 in the form.

(iii) The effect of the amendment made by virtue of Act No.54/1994 w.e.f. 14.11.1994 while substituting clauses (e) to (h) of section 10(2) which contained "medium goods vehicle" in section 10(2)(e), medium passenger motor vehicle in section 10(2)(f), heavygoods vehicle in section 10(2)(g) and "heavy passenger motor vehicle" in section 10(2)(h) with expression 'transport vehicle' as substituted in section 10(2)(e) related only to the aforesaid substituted classes only. It does not exclude transport vehicle, from the purview of section 10(2)(d) and section 2(41) of the Act i.e. light motor vehicle.

(iv) The effect of amendment of Form 4 by insertion of "transport vehicle" is related only to the categories which were substituted in the year 1994 and the procedure to obtain driving licence for transport vehicle of class of "light motor vehicle" continues to be the same as it was and has not been changed and there is no requirement to obtain separate endorsement to drive



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transport vehicle, and if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect.”

15. This Court in **Oriental Insurance Co.Ltd. vs. Smt.Lalanwati and others, 2012 (1) PLR 397** held as under:-

“7. Coming to the question of validity of the driving licence, the driving licence held by respondent no.1 authorised him to drive the motorcycle, scooter, car and tractor. Jeep is not specifically mentioned in the licence and, therefore, the licence on the face of it does not authorise respondent No.1 to drive the jeep. However, it is not a case where the vehicle being driven by respondent No.1 is goods carrier or a transport vehicle. Jeep falls within the definition of Light Motor Vehicle (LMV) under section 2(21) of the Act and there is no separate definition of jeep available in the Act.”

16. This Court in **National Insurance Company Ltd. versus Sanjay Kumar and others, 2011 (2) RCR (Civil) 242** held as under:-

“8. As regards the validity of the driving licence Ex. R-1, it has been argued that respondent No. 1 was not holding a valid licence for driving the offending vehicle as he had a licence to drive Scooter, Motorcycle and Car only and there is no endorsement on it with regard to driving of Jeep also. In this regard, it may be observed that the Car and the Jeep principally are having same mechanism, both are Light Motor Vehicles. There is nothing to suggest that if accident was directly traceable to the holding of proper licence but it was due to rash driving which led to the bursting of the tyre. The

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accident also did not take place due to mechanical failure or that the driver was not holding the requisite type of licence. On a similar proposition, a Full Bench of this Hon'ble High Court in National Insurance Co.Ltd. v. Parveen Kumar and others, 2005(1) RCR (Civil) 485 : 2005(1) PLR 230 observed as under :-

The issue being no more res integra, needs no further elaboration. We may, however, hasten to add that the Insurance Company cannot be absolved of its liability to pay the compensation by simply pleading that the licence granted to the driver being for one class or description of vehicle but the vehicle involved in the accident was of the different class of description, unless it is proved that the cause of accident was the licence granted to the driver being for one class or description of vehicle but the vehicle involved in the accident was of different class or description. The observations made by the Supreme Court presuppose that if the driver was driving a vehicle of which he might not be holding licence as such, but was holding a driving licence of a different description of vehicle, and the driving method of both the vehicles, for which licence was obtained and the one which was being driven, was the same and when even the mechanism of the vehicle is also same, the defence projected by the Insurance Company with regard to the driver not

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possessing requisite type of licence could be of no avail to it.

We thus overrule the view taken by the Division Bench in National Insurance Company Ltd. (supra) and hold that if on facts, it is found that accident was caused solely because of some other unforeseen or intervening causes like mechanical failures and similar other causes having no nexus with driver not possessing requisite type of licence, the insurer will not be allowed to avoid its liability merely for technical breach of conditions concerning driving licence, the defence projected by the Insurance Company in the context of Section 149(2)(a)(ii) and proviso appended to sub-sections (4) and (5) of the Motor Vehicles Act, 1988 can succeed only if it is proved that the accident had taken place only because the driver was not possessing requisite type of licence.

9. The petitioner was holding a valid driving licence for driving Car and Scooter and the mechanism of the Car is quite similar to the mechanism of Jeep and no separate technique was required to be learnt to drive the Jeep.”

17. In view of the law laid down by the Hon’ble Supreme Court and by this Court in the above mentioned judgments, there is no dispute with regard to the issue that a person holding a licence to drive light motor vehicle (car), cannot be said to have no licence for driving jeep. It is not necessary that he must have driving licence both for car and jeep separately.



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18. Accordingly, the present appeal is allowed and the award dated 01.12.2005 is modified to the extent that the insurance company is liable to pay the compensation to the claimants, as per ratio fixed by the learned Tribunal.

06.11.2024
G Arora

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No