

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO NO. 6267 OF 2012 (O&M)
DECIDED ON : 06.04.2015**

Radha Soami Satsang Beas and another

...Appellants

versus

Jasbir Kaur and others

...Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Ms. Puneet K. Sekhon, Advocate,
for the appellants.

Mr. Lalit Garg, Advocate,
for the Insurance Company.

K. C. PURI, J. (ORAL)

This is an appeal directed by Radha Soami Satsang Beas against the Award dated 07.08.2012 passed by Ms. Amarjot Bhatti, Motor Accident Claims Tribunal-cum-Additional District Judge, Jalandhar, vide which the claim petition was accepted and all the respondents have been jointly and severally held liable to pay the amount with a rider that Insurance Company shall have the recovery rights from the present appellants.

The learned Tribunal has given the recovery rights on the ground that the offending vehicle was not having valid route permit to ply the bus on the road. The appellants have moved an application for leading additional evidence to produce certain documents including registration certificate, notification dated 19.06.1992.

Learned counsel for the appellants has submitted that the Tribunal has relied upon Section 66 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act") and on the strength of same, it is argued that it is observed that route permit is required. It is submitted that the bus in question is omni bus registered for private use and as per notification dated 19.06.1992, omni bus for private use is not a transport vehicle and as such, the route permit is not required.

Learned counsel for the Insurance Company has submitted that PW-3 Amrik Singh has stated that the bus has come from the bus stand and as such, the same is being used for transporting the passengers and as such, the said bus requires route permit. It is further submitted that if it was a private bus then the same cannot go inside the bus stand. It is further submitted that there is violation of Section 66 of the Act and as such, recovery rights have been rightly given.

I have considered the submissions made by learned counsel for the parties and have gone through the records carefully.

In order to properly appreciate the facts of the case, Section 66 of the Act is reproduced as under :-

“66. Necessity for permits – (1) No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorizing him the use of the vehicle in that place in the manner in which the vehicle is being used :

Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorize the use of the vehicle as a contract carriage:

Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorize the use of the vehicle as a goods carriage either when carrying passengers or not.

Provided also that a goods carriage permit shall, subject to any conditions that may be specified in the permit, authorize the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by him.”

From the bare reading of Section 66 of the Act, it is revealed that the route permit is required in respect of vehicle which is a transport vehicle. The question which arises in the present appeal is whether omni bus in question was a transport vehicle or not. From the perusal of Annexure A-3, it is revealed that it is registered as omni bus for private use only. In the notification Annexure A-4, bearing No. SO.436(E)12.06.1989

superseded by notification No. SO.451(E)19.06.1992, the description of transport and non-transport vehicle has been mentioned at S.No.XIV under the head "*Non Transport Vehicle*" omni bus for private use has been mentioned. Similar is description in Annexure A-3. In the same notification at S. No. 23, omni bus has been mentioned under the head "*Transport Vehicle*". So, from the perusal of the said notification, it is crystal clear that if the omni bus is not used for private use in that case it is a transport vehicle and in case it is used for private use in that case it is a non-transport vehicle.

Learned counsel for the Insurance Company has submitted that since the bus was being plied from the bus stand and as such, there is violation of terms and condition of the policy. The said submission carries no weight. It is a settled law that Insurance Company has to satisfy that there is non-compliance of provisions or rules. The bus belongs to Radha Soami Satsang Beas and in case they are carrying the followers from bus stand to Derra that cannot be said to be used for reward or for fare. It is nobody case that any amount was charged from the persons travelling in the said bus. So, it cannot be said that there is non-compliance of the provisions of the Act. In these circumstances, an application for additional evidence stands allowed and Annexures A-3 and A-4 are taken on record. The appeal stands accepted. The findings of the Tribunal to the extent of giving recovery rights to the Tribunal stands set-aside.

In view of the peculiar circumstances of the case, the parties are directed to bear their own costs. The amount is stated to have been paid to the claimants by the Insurance Company.

Disposed of.

06 APRIL, 2015
shalini

(K. C. PURI)
JUDGE