825.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4975 of 2011 (O&M)
Date of decision:17.03.2016

The Oriental Insurance Company Limited ... Appellant

versus

Smt. Manto and others .... Respondents

II. <u>FAO No.4838 of 2011</u> (O&M)

Smt. Manto and others ... Appellants

versus

Manak and others .... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sanjiv Pabbi, Advocate,
for the appellant in FAO No.4975 of 2011 and
for respondent No.3 in FAO No.4838 of 2011.

None for the appellants in FAO No.4838 of 2011.

Mr. J.S. Hooda, Advocate,
for respondents 1 and 2 in FAO No.4838 of 2011 and
for respondents 7 and 8 in FAO No.4975 of 2011.

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1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

<u>K.Kannan, J.</u> *(Oral)*

1. The tractor which was insured as for agricultural purpose was being driven by a person who held LMV licence. The

contention was that the driving licence was not effective and if it was attached to a trolley, it should have been treated as a goods vehicle and the driver ought to have had a transport vehicle endorsement.

2. The Government through a notification S.O.1248 (e), dated 5th November, 2004 through the Ministry of Surface Transport Number S.O.451 (e) held that under Section 41(4) of Motor Vehicles Act, 1988, an agricultural tractor, power tiller and Tow trucks are non-transport vehicles.

3. If it was a non-transport vehicle used for an agricultural purpose, the tractor, being a light motor vehicle, could be driven by a person holding a LMV licence. The indemnity provided to the owner and driver was, therefore, perfectly justified.

4. The counsel refers me to the judgment of the Supreme Court in ***<u>Chairman, Rajasthan State Road Transport Corporation and others Versus Santosh and others-2013(3) SCC (Cri) 37</u>*** that was considering the case of a 'jugaad'. The court was finding that jugaad did not require permit, insurance or a driving licence. It did not require a fitness certificate and it could not be allowed to ply in road. If it was not a motor vehicle, there was no question of making compulsory insurance under Section 147 of Motor Vehicles Act and in such a situation, the liability of the insurance also did not arise. This judgment has no applicability to the facts of our case.

5. The appeal by the Insurance Company in FAO No.4975 of 2011 is dismissed.

6. There is no representation for the appellants in FAO No.4838 of 2011. The appeal in FAO No.4838 of 2011 is dismissed for default for non-prosecution.

(K.KANNAN)
JUDGE

17.03.2016
sanjeev