In the High Court of Punjab and Haryana at Chandigarh

FAO No. 4143 of 2013 (O&M)
Date of Decision:26.10.2016

United India Insurance Company Limited

---Appellant

vs.

Munia Devi and others

---Respondents

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. R.K.Bashamboo, Advocate
for the appellant

None for respondent Nos. 1 to 6

Mr. Rakesh Nagpal, Advocate
for respondent Nos. 7 to 9

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Rekha Mittal, J.

The insurance company has filed the appeal to assail the award dated 1.6.2013 passed by the Motor Accidents Claims Tribunal, Sirsa (in short "the Tribunal") whereby compensation has been awarded in favour of Meena Devi and others with regard to death of Suraj Devi Chaudhary alias Suraj Chaudhary in a motor vehicular accident that took place on 22.12.2011.

The sole submission made by counsel for the appellant is that as tractor was attached with a trolly used for carrying goods, the vehicle in question is to be treated as a transport vehicle, therefore, Rattan Lal Tiwari, the driver was not holding a valid driving licence for want of endorsement of transport and the same amounts to violation of the terms and conditions of contract of insurance, constituting a valid defence under Section 149 of the Motor Vehicles Act, 1988 (in short "the Act")

There is no representation on behalf of the respondents who were earlier being represented by Sh. Harish Bhardwaj, Advocate for respondent Nos. 1 to 6 and Sh. Rakesh Nagpal for respondent Nos. 7 to 9.

I have heard counsel for the appellant, perused the paper book particularly the award passed by the Tribunal.

The learned Tribunal, on a detailed consideration of the matter refused to accept contention of the insurance company that either the vehicle in question is to be treated as a transport vehicle or driver of the vehicle holding a driving licence to drive a light motor vehicle is to be held incompetent to drive the vehicle in question. It has also been noticed by the Tribunal that both the tractor and the trailer were insured with the insurance company on payment of Rs. 930/- towards premium and the gross vehicle weight including that of the trailer was not more than 7500 kgs, therefore, the vehicle in question would fall within the definition of light motor vehicle contained under Section 2(21) of the Act.

The controversy raised in the present appeal stands settled against the appellant in the light of judgment of Hon'ble the Supreme Court of India ***Nagashetty vs. United India Insurance Company Limited, 2001 (4) RCR (Civil) 597*** wherein Hon'ble the Supreme Court in para 10 of the judgment has held quoted thus:-

> “We are unable to accept the submissions of Mr. S.C. Sharda. It is an admitted fact that the driver had a valid and effective licence to drive a tractor. Undoubtedly under Section 10 a licence is granted to drive specific categories of motor vehicles. The question is whether merely because a trailer was attached

to the tractor and the tractor was used for carrying goods, the licence to drive a tractor becomes ineffective. If the argument of Mr. S.C. Sharda is to be accepted then every time an owner of a private car, who has a licence to drive a light motor vehicle, attaches a roof carrier to his car or a trailer to his car and carries goods thereon, the light motor vehicle would become a transport vehicle and the owner would be deemed to have no licence to drive that vehicle. It would lead to absurd results. Merely because a trailer is added either to a tractor or to a motor vehicle by itself does not make that tractor or motor vehicle a transport vehicle. The tractor or motor vehicle remains a tractor or motor vehicle. If a person has a valid driving licence to drive a tractor or a motor vehicle he continues to have a valid licence to drive that tractor or motor vehicle even if a trailer is attached to it and some goods are carried in it. In other words a person having a valid driving licence to drive a particular category of vehicle does not become disabled to drive that vehicle merely because a trailer is added to that vehicle."

In view of the above, contention raised by counsel for the insurance company is not tenable and liable to be rejected.

No other point has been raised.

In view of what has been discussed hereinabove, finding no merit, the appeal fails and is accordingly dismissed.

(Rekha Mittal)
Judge

26.10.2016
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No