

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3906 of 2014 (O&M)

Date of Decision.09.02.2016

Sanjay Pandey and another

.....Petitioners

Vs.

Manoj Kumar and another

.....Respondents

Present: Mr. Amit Parashar, Advocate for
Mr. Rajneesh Chadwal, Advocate
for the appellants.

Mr. S.K. Yadav, Advocate
for respondent No.1.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. Delay of 315 days in filing the appeal is condoned.
2. The appeal is at the instance of the owner and driver challenging the correctness of the decision that has denied to them the right of indemnity in the award that was passed. It was a case of commercial vehicle being insured as such and run for transporting goods with the driver having a light motor vehicle licence. The contention is that the vehicle was a light motor vehicle and the light motor vehicle licence was sufficient. The counsel would rely on a decision of the Suprme Court in **National Insurance Company Ltd. Vs. Sri Annappa Irappa Nesaria and others 2008(3) SCC 464** to contend that a light goods carriage would come within the definition of light motor vehicle and driver possessing a light motor vehicle licence will be authorized to

drive a light goods carriage vehicle as well. The counsel would also refer to a Full Bench ruling of Himachal Pradesh High Court in **Prem Singh Vs. Baldasi and others 2010(83) ACJ 725** that a person holding a licence to drive light motor vehicle is entitled to drive transport vehicle, the unladen weight of which is less than 7500 kg.

3. I will not make any comment on the Himachal Pradesh High Court decision but I will test the correctness of the argument in the light of what is contained under the bare provisions of the Motor Vehicles Act. The definition contained as light motor vehicle and transport vehicle are not mutually exclusive. There is a fair amount of over-lap. It may be possible that a light motor vehicle will be tested on the basis of the weight but if the same vehicle is used for a purpose intended to carry passengers as a public service vehicle or a goods carriage or as an educational institution bus or a private service vehicle under Section 2 (45) of the Motor Vehicles Act, it will qualify as a transport vehicle as well. The necessity for driving licence under Section 3 is dictated by the nature of user of the vehicle. If the vehicle is used as a transport vehicle then the requirement in law is that no person shall so drive a transport vehicle unless his driving licence specifically entitles him to do so. The argument, therefore, that a light motor vehicle even if used as a service vehicle for carrying goods or carrying passengers would allow a person to have merely a light motor vehicle licence is erroneous. The Supreme Court itself has had occasion to consider this in different situations and I will rely on these decisions as governing consideration for what is the nature of driving licence that would be necessary. In **New India Assurance Company Limited Vs. Prabhu Lal 2008 ACJ 267** the Court

was considering the requirement of a transport vehicle endorsement to light motor vehicle and held that if a transport vehicle endorsement is not there to a driver having a light motor vehicle licence when the vehicle that he was driving was used as such transport vehicle, the insurance company will be exonerated from liability. In *Oriental Insurance Company Limited Vs. Angad Kol and others (2009) 11 SCC 356*, the Court was considering a similar situation of a three wheeler which was a light motor vehicle which was used for hire and the Court held that without transport vehicle endorsement, the insurance company could not be made liable and the driver cannot be said to have a valid driving licence.

4. The application of Section 3 of the Motor Vehicles Act to require a transport vehicle endorsement has been considered in the judgments in the cases of *Angad Kol and Prabhu Lal* referred to above. The inadequacy of factual details in the judgment in *Sri Annappa Irappa Nesaria* (supra) have been pointed out and the law has been fully expounded in yet another judgment already rendered in *Hanuman Singh Vs. Sona Devi (2015) 4 PLR 619*. I will, therefore, discard the argument brought by the owner that he had a valid driving licence. The provision for recovery made against the owner and driver is, therefore, well founded and I will find no reason for interference with the same. The appeal by the owner and driver is dismissed.

(K. KANNAN)
JUDGE

February 09, 2016
Pankaj*