

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

1.

FAO No. 2938 of 2016(O&M)

Date of Decision: May 24 , 2016.

National Insurance Company Ltd.

..... APPELLANT(s)

Versus

Kamlesh Rani and others

..... RESPONDENT (s)

2.

FAO No. 2946 of 2016(O&M).

National Insurance Company Ltd.

..... APPELLANT(s)

Versus

Gurmeet Kaur and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sukhdarshan Singh, Advocate
for the appellant.

Mr. Ram Kumar Saini, Advocate
for respondent No.1-caveator (in FAO No.2938 of 2016).

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?

LISA GILL, J.

This order shall dispose of FAO No. 2938 of 2016 (National Insurance Company Ltd. v. Kamlesh Rani and others) and FAO No.2946 of 2016 (National Insurance Company Ltd. v. Gurmeet Kaur and others).

The appellant – National Insurance Company Ltd. has filed the

present appeals impugning award dated 24.12.2015 passed by the Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as, the 'Tribunal') arising out of an accident which took place on the intervening night of 2/3.11.2013 due to the rash and negligent driving of tractor-trolley bearing registration No.HR09-0138 by respondent No.5 – Gurnam Singh. Pardeep Kumar and Dharampal lost their lives whereas, Gurjeet Singh received injuries on his right leg. Claim petitions were filed by the legal heirs of Pardeep Kumar and Dharampal claiming compensation on account of death of the said persons and a petition was also preferred by injured – Gurjeet Singh claiming compensation on account of the injuries received by him in the abovesaid accident. The learned Tribunal while accepting the claim petitions has awarded the compensation as under:-

<i>Petition preferred by</i>	<i>Compensation awarded by the Tribunal</i>
Legal heirs of Pardeep Kumar	₹21,53,000/-
Legal heirs of Dharampal	₹20,62,504/-
Injured Gurjeet Singh	₹6,07,545/-

The present two appeals deal with the claim petitions filed by the legal heirs of Pardeep Kumar and Dharampal.

While not addressing any arguments on the quantum of compensation awarded on account of the death of Pardeep and Dharampal, learned counsel for the appellant– Insurance Company impugns the award solely on the ground that the Insurance Company is not liable to pay the compensation as the driver of the tractor-trolley was not authorised to drive

the same as he was holding a Driving Licence valid for driving Light Motor Vehicles. It is vehemently argued that when a trailer or trolley is attached to a tractor it assumes the character of a transport vehicle. Therefore, a person holding a licence to drive Light Motor Vehicles is not entitled to drive a transport vehicle, namely, tractor with a trolley attached. This act amounts to a breach and violation of the terms and conditions of the insurance policy thus, entitling the insurance company to escape liability.

I have heard learned counsel and have gone through the impugned award.

Learned Tribunal has succinctly dealt with the objections raised by the appellant – Insurance Company in the impugned award. It has been specifically observed by the Tribunal as follows:-

“Learned counsel representing respondent No.3- insurance company has also argued that respondent No.1 was not authorised to drive tractor-trolley being a transport vehicle as he was holding a driving licence to drive Light Motor Vehicles. However, the said contention of learned counsel for respondent No.3 cannot be accepted. Tractor-trolley is a non-transport vehicle and the driver having a non-transport licence can drive an agriculture tractor. In this regard, reliance can be placed upon the case titled “**Reliance General Insurance Company Ltd. Versus Rekhabai and others**” **2012 ACJ 2494**, wherein, it has been held by the Hon'ble High Court of Chhattisgarh that the driver, who was holding a driving licence to drive a non-transport vehicle, he could drive an agricultural tractor which is a non-transport agricultural tractor as defined in sub-clause (b) of Section 2 of the Central Motor Vehicles Rules. It has been further held that since the driver was

holding a valid licence, the insurance company was liable. In case titled “Nagashetty Versus United India Insurance Company Ltd & others” 2001 (2) ACJ 367 (SC), wherein, it has been held by the Hon'ble Apex Court that a person having a valid driving licence to drive a tractor continues to have a valid licence to drive that tractor even if a trailer is attached to it and some goods are carried in it. In these circumstances, it can be safely concluded that respondent No.1, who was the driver of the offending vehicle, was having a valid and effective driving license at the relevant time and has not violated the terms and conditions of insurance policy. This issue is accordingly decided against respondent No.3.”

It is a settled position of law that the insurance company cannot escape its liability as in the present set of circumstances. A tractor-trolley cannot be held to be a transport vehicle. The driver, namely, Gurnam Singh was holding a valid licence, Ex.R3 at the time of accident to drive the tractor-trolley. Learned counsel for the appellant is unable to point out any illegality or infirmity in the abovesaid finding returned by the Tribunal.

Learned Tribunal has further observed by noting the judgment of Hon'ble Supreme Court in Fahim Ahmad and others v. United India Insurance Company Ltd. and others, 2014(2) RCR(Civil) 470 that the tractor-trolley cannot be termed to be a goods carriage, therefore, there is no breach of any term and condition of the insurance policy. The contention on behalf of the insurance company for the requirement of a permit in this case, to ply the tractor-trolley has been rightly negated by the learned Tribunal, in consonance with the settled position of law.

There is no illegality, infirmity or perversity pointed out by learned counsel for the appellant in the impugned award dated 24.12.2015 passed by learned Motor Accident Claims Tribunal, Kurukshetra which would warrant interference by this Court.

Consequently, both the appeals are dismissed.

May 24 , 2016.
'om'

(**LISA GILL**)
JUDGE