

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

**FAO No.6454 of 2016 (O&M)  
Decided on: 22.10.2016**

National Insurance Company Limited

....Appellant

Versus

Rekha Gupta and others

....Respondents

**CORAM: HON'BLE MRS JUSTICE REKHA MITTAL**

**Present :** Mr. R.C. Kapoor, Advocate  
for the appellant.

**REKHA MITTAL, J.**

The present appeal has been directed against the award dated 21.07.2016 passed by the Motor Accidents Claims Tribunal, Chandigarh (in short 'the Tribunal') whereby compensation has been awarded in favour of the respondents/claimants in regard to death of Sandeep in a motor vehicular accident due to rash and negligent driving of tractor No.HR-49-A-3049 by Suraj son of Ram Singh.

The sole submission made by counsel for the appellant (insurance company) is that driver of the tractor attached with a traula used for carrying goods was not holding a driving licence to drive a transport vehicle, therefore, the insured has committed breach of the terms and conditions of contract of insurance giving a valid defence to the insurance company under Section 149 of the Motor Vehicles Act, 1988, hence, the insurance company is liable to be exonerated of its liability. In the alternative, it is submitted that if the insurance company is held liable to pay compensation to the claimants, it should be given right of recovery against the insured.

I have heard counsel for the appellant and perused the paperbook particularly the award passed by the Tribunal.

The controversy raised in the present appeal is no longer *res integra* and stands decided against the appellant in the light of enunciation of law laid down by Hon'ble the Supreme Court of India **“Nagashetty vs United India Insurance Company Limited”, 2001(4) RCR (Civil) 597** wherein the Hon'ble 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.”*

No other point has been raised.

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

22.10.2016

*yakub*

(REKHA MITTAL)

JUDGE

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