

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

FAO No. 1431 of 2007 (O&M)
Date of Decision: October 03, 2017

National Insurance Company Ltd.

..Appellant(s)

Versus

Avtar Singh and others

..Respondent(s)

with

FAO No. 1432 of 2007 (O&M)

National Insurance Company Ltd.

..Appellant(s)

Versus

Smt. Iqbal Kaur and others

..Respondent(s)

FAO No. 1433 of 2007 (O&M)

National Insurance Company Ltd.

..Appellant(s)

Versus

Rishavjit Singh and others

..Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Vandana Malhotra, Advocate
for the appellant/insurance company (in all the three appeals).

Ms. Amanpreet Kaur, Advocate for
Mr. HNS Gill, Advocate
for claimant/respondent no.1 (in all the three appeals).

Mr. D.S. Nigha, Advocate
for owner and driver/respondents no.2 & 3
(in all the three appeals).

ANITA CHAUDHRY, J.

These are three appeals arising out of an accident which took place on 10.01.2003, in which three persons namely Avtar Singh, Iqbal Kaur and Rishavjit Singh sustained injuries. Three claim petitions were filed, which were disposed of vide separate awards by the Motor Accident Claims Tribunal, Ropar. These three appeals have been filed by the insurance company disputing its liability and I propose to take these three appeals together. Three other appeals filed by the claimants are also listed today and will be disposed of vide separate orders.

Counsel for the insurance company urges that the driver was driving a tractor though he was not authorized. It was urged that in the driving licence placed on record by the driver, tractor was mentioned but when they had summoned an official with the record it was found that the licence had been granted for driving a motorcycle/car and it was a learners licence. It was urged that the Tribunal relied upon National Insurance Co. Ltd. Vs. Swaran Singh, 2004 ACJ 1 (SC) and wrongly placed the liability upon the insurance company. It was urged that a person who holds a learners licence has to be accompanied by a person who has a proper licence and in this case he had no licence to drive a tractor and wrong view had been taken by the Court below when it stated that the car would also cover a tractor. The counsel had referred to the definition of motorcar in Section 2(21) of the Motor Vehicles Act, 1988. It was urged that it specifically states that the motor car does not include tractor.

The submission on behalf of the owner was that the licence which was produced shows that the licence had been issued for driving a tractor as well and the insurance company cannot be exonerated.

I have heard counsel of both the sides, perused the record.

The driver of the offending vehicle was driving a tractor though he was not authorized. The driver had a learners licence and was authorized to drive motorcycle and a car. The driving licence does not state that the driver could drive a light motor vehicle. The driver did not have a licence to drive a tractor. He was holding a learners licence and there was a breach of the policy conditions, therefore, recovery rights should have been given to the insurance company.

The findings recorded by the Tribunal with respect to liability of the insurance company is modified and recovery rights are given to insurance company to recover the compensation they have paid from the owner/driver.

All the three appeals are allowed.

(ANITA CHAUDHRY)
JUDGE

October 03, 2017
Sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No