

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

FAO No. 1719 of 2011 (O&M)

DATE OF DECISION : 15.12.2017

ICICI Lombard General Insurance Company Limited

.... APPELLANT

Versus

Rampal and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Subhash Goyal, Advocate,
 for the appellant.

None for the respondents.

* * *

AVNEESH JHINGAN, J. (Oral)

The Insurance Company has filed the present appeal against the award dated 17.08.2010 passed by the Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal').

In a motor vehicular accident, that occurred on 29.11.2008, the offending vehicle was Pick up dala bearing registration No. HR-38/7138. In the said accident, Ramphal, aged 44 years, suffered injuries. He filed a claim petition under Section 166 of the Motor Vehicles Act, 1966 (for short, 'the Act'). The Tribunal awarded a sum of ₹ 15,070/- along with interest at the rate of 7.5% per annum.

The only issue raised by learned counsel for the appellant – Insurance Company is that driver of the offending vehicle was holding a

licence valid for driving light motor vehicle and he was driving a transport vehicle in the category of light motor vehicle, but there was no endorsement on the driving licence. The contention is that the appellant – Insurance Company should have been awarded recovery rights.

The contention raised by learned counsel for the appellant – Insurance Company deserves rejection, in view of a decision of the Hon'ble Apex Court in **Mukand Dewegan Vs. Oriental Insurance Co. Limited, 2016(4) SCC 298**, wherein it has been held as under:-

“46. Section 10 of the Act requires a driver to hold a licence with respect to the class of vehicles and not with respect to the type of vehicles. In one class of vehicles, there may be different kinds of vehicles. If they fall in the same class of vehicles, no separate endorsement is required to drive such vehicles. As light motor vehicle includes transport vehicle also, a holder of light motor vehicle licence can drive all the vehicles of the class including transport vehicles.

It was pre-amended position as well the post-amended position of Form 4 as amended on 28.3.2001. Any other interpretation would be repugnant to the definition of “light motor vehicle” in section 2(21) and the provisions of section 10 (2) (d), Rule 8 of the Rules of 1989, other provisions and also the forms which are in tune with the provisions. Even otherwise the forms never intended to exclude transport vehicles from the category of ‘light motor

vehicles’ and for light motor vehicle, the validity period of such licence hold good and apply for the transport vehicle of such class also and the expression in Section 10(2)(e) of the Act ‘Transport Vehicle’ would include medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle, heavy passenger motor vehicle which earlier found place in section 10(2)(e) to (h) and our conclusion is fortified by the syllabus and rules which we have discussed. Thus we answer the questions which are referred to us thus:

(i) ‘Light motor vehicle’ as defined in section 2 (21) of the Act would include a transport vehicle as per the weight prescribed in section 2(21) read with section 2(15) and 2(48). Such transport vehicles are not excluded from the definition of the light motor vehicle by virtue of Amendment Act No.54/1994.

(ii) A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg. would be a light motor vehicle and also motor car or tractor or a road roller, ‘unladen weight’ of which does not exceed 7500 kg. and holder of a driving licence to drive class of “light motor vehicle” as provided in section 10(2)(d) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg. or a motor car or tractor or roadroller, the “unladen weight” of which does

not exceed 7500 kg. That is to say, no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class as enumerated above. A licence issued under section 10(2)(d) continues to be valid after Amendment Act 54/1994 and 28.3.2001 in the form.

(iii) The effect of the amendment made by virtue of Act No.54/1994 w.e.f. 14.11.1994 while substituting clauses (e) to (h) of section 10(2) which contained “medium goods vehicle” in section 10(2)(e), medium passenger motor vehicle in section 10 (2)(f), heavy goods vehicle in section 10(2)(g) and “heavy passenger motor vehicle” in section 10(2)(h) with expression ‘transport vehicle’ as substituted in section 10(2)(e) related only to the aforesaid substituted classes only. It does not exclude transport vehicle, from the purview of section 10(2)(d) and section 2(41) of the Act i.e. light motor vehicle.

(iv) The effect of amendment of Form 4 by insertion of “transport vehicle” is related only to the categories which were substituted in the year 1994 and the procedure to obtain driving licence for transport vehicle of class of “light motor vehicle” continues to be the same as it was and has not been changed and there is no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect.”

In the above decision, it has been held by the Hon'ble Apex Court that if the driver is holding driving licence for driving light motor vehicle, no endorsement is required for driving transport vehicle of the same category.

In the present case, there is no dispute that the offending vehicle was a transport vehicle under the category of light motor vehicle and the driver was having a licence to drive light motor vehicle.

In view of the above, the appeal is without any merit and is dismissed.

December 15, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No