

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5412-2010 (O&M)

Date of decision: May 23, 2017

UNITED INDIA INSURANCE COMPANY LTD.APPELLANT...

VERSUS

PARAMJIT KAUR AND OTHERSRESPONDENTS...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vinod Gupta, Advocate,
for the appellant.

Mr. Sham Lal Bhalla, Advocate,
for respondents No.2 and 4.

JASPAL SINGH, J.

Dissatisfied with the award dated 19.07.2010 passed by Motor Accident Claims Tribunal, Fatehgarh Sahib (for brevity, "Tribunal") in MACT No.76, dated 25.08.2008, titled as "*Paramjit Kaur v. Subhash Kumar and others*", under Section 166 read with Section 140 of the Motor Vehicles Act, 1988 (as amended up to 1994) (for short, "Act" only), whereby an amount of Rs.1,77,000/- has been awarded to the claimant on account of death of Happy Ram @ Harpreet Singh in a vehicular accident occurred on 16.07.2008 in the area of Village Jalalpur due to rash and negligent driving of Tractor Trolley bearing No.PB-11-Y-4292 by its driver Karamjit Singh.

2. While assailing the impugned award dated 19.07.2010, it has been argued with vehemence by learned counsel for the appellant-insurance company

that Id. Tribunal has failed to appreciate the evidence on record to the fact that driver of the offending vehicle (Tractor Trolley) was not holding a valid and effective driving licence at the time of accident. Id. Tribunal has also mis-appreciated the evidence and has wrongly relied upon Section 2(26) of the Act which deals with motor car whereas, the driver was not having a license to drive motor car but was having a licence to drive scooter and car only. Otherwise also, tractor falls under the category of Light Motor Vehicle (LMV) which include the motor car or tractor. In such circumstances, Section 2 (21) of the Act is attracted which defines LMV. Moreover, a specific endorsement is required to drive the tractor or LMV by the licensing authority. Thus, insurance company cannot be fastened with any liability to pay the compensation and the award dated 19.07.2010 to that extent is liable to be set aside/modified.

3. On the other hand, learned counsel for respondents No. 2 and 4 has supported the impugned award dated 19.07.2010 and has contended that Id. Tribunal has rightly observed that the driving license held by Karamjit Singh was valid and he was authorised to drive the tractor. There is no illegality or perversity in the findings recorded by Id. Tribunal in this regard and the liability to pay the compensation has been rightly fastened upon the insurance company, especially, when the offending vehicle was duly insured with it.

4. After bestowing due consideration to the rival submissions made by learned counsel for the parties and scrutinizing the impugned award, this Court is of the considered view that submissions made by learned counsel for the appellant-insurance company do not carry any legal and factual weight. The findings recorded by Id. Tribunal to the extent that driving license held by Karamjit Singh is legal, valid and effective; authorizing him to drive the tractor

trolley.

5. Ld. Tribunal has rightly attracted the provision contained in Section 2 (26) of the Act, which defines motor car, which include tractor also. Thus, this Court does not find any infirmity in the impugned award as well as the findings recorded by ld. Tribunal in this regard.

6. In the light of what has been discussed above, this Court does not find any merit in the instant appeal. As such, the same is dismissed whereby the impugned award dated 19.07.2010 is upheld.

May 23, 2017
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(JASPAL SINGH)
JUDGE

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