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

FAO-4329-2011

Date of decision : 02.12.2017

Reliance General Insurance Company Ltd.

... Appellant(s)

Versus

Santra and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajneesh Malhotra, Advocate
for the appellant.

Mr. Rajesh Lamba, Advocate
for the respondent(s).

AMIT RAWAL, J. (ORAL)

The appeal has been preferred by the appellant-Reliance General Insurance Company Ltd., challenging the award of the learned Motor Accident Claims Tribunal, Gurgaon (in short 'the Tribunal'), whereby the liability to pay the compensation has been fastened upon it.

Mr. Rajneesh Malhotra, learned counsel appearing on behalf of the appellant-Insurance Company has challenged the award of the Tribunal on the following grounds:-

i) The vehicle, in question, insured with the Insurance Company was not involved in the accident occurred on 29.09.2009 in view of the fact that the driver had denied the accident and the claimants have failed to prove the involvement of the vehicle, even the FIR did not disclose the number of the vehicle. The number of the vehicle was disclosed later on

on the statement of PW-4 Jai Bhagwan.

ii) The driver of the vehicle was having an LMV Licence, whereas the vehicle involved and insured was tractor, therefore, there was no endorsement as per Sections 10 and 11 of the Motor Vehicles Act, 1988 (in short 'the Act'). The tractor would not fall within the definition of LMV.

On the contrary, Mr. Rajesh Lamba, learned counsel appearing on behalf of the owner and driver submits that as regards the FIR is concerned, the driver in the aforementioned case as per judgment dated 12.04.2014 had pleaded guilty and therefore, the arguments of Mr. Malhotra regarding non-involvement of the vehicle is ruled out. On the other point, he submitted that the unladen weight of the tractor as per the registration certificate is less than 7500 kgs and therefore, it would definitely fall within the definition of LMV as enshrined under sub-Section 21 of Section 2 of the Act, thus, urges this Court for dismissal of the appeal.

I have heard the leaned counsel for the parties and appraised the paper book and of the view that as per the judgment dated 12.04.2014 passed in Criminal Case No.RBT 191 titled as **“State V/s Oma Ram”** pertaining to FIR No.55 dated 30.09.2009 under Sections 279, 337 & 338 IPC registered at Police Station Farrukh Nagar, the driver had pleaded guilty. The said order has been produced in Court today and the same is taken on record. For the sake of brevity, the operative part of the aforementioned judgment/order reads as under:-

"The above named accused has been sent by the Station House Officer, Police Station Farrukh Nagar to stand trial for commission of the offence punishable under Section 279, 337 & 338 of Indian Penal Code, 1860 (in short IPC).

2. In brief, the case set by the prosecution is that on

29.09.2009, the accused Oma Ram drove his Vehicle bearing registration No.RJ-22-RA-0841 in a rash and negligent manner and rammed the complainant motorcycle bearing registration No.HR-26-AR-1357. Due to which Sh. Amar Singh, the complainant's father and Jaggu sustained injuries. On the statement of complainant, a formal FIR was registered. Investigation was set into motion. During investigation accused Oma Ram was arrested by the police. Upon completion of investigation challan was prepared and put in the court for trial.

3. Copies of challan were supplied to accused free of cost as provided u/s 207 of Cr.P.C.

4. On finding a prima facie case, the accused were charge sheeted under on 23.02.2010 Sections 279, 337 & 338 of IPC, to which accused did not plead guilty and claimed trial.

5. Today when the case was fixed for prosecution evidence, accused desired to confess his guilt. His confessional statement recorded separately. I have satisfied myself that confession being made by the accused is voluntarily in nature, free from coercion, inducement and pressure.

6. Heard. Accepting the plea of guilt of accused, accused is hereby held guilty under Sections 279, 337 & 338 of IPC and convicted thereunder. Let the accused be heard on quantum of sentence."

thus, the contention of Mr. Malhotra, regarding non-involvement of the vehicle would not be sustainable and the same is hereby rejected.

Coming to the point of validity of the driving licence, much less, breach of the terms and conditions of the Insurance Policy, concededly as per the registration certificate of the vehicle/Tractor, the unladen weight was less then 7500 kgs, therefore, it would definitely be treated as LMV as per the definition enshrined under sub-Section 21 of Section 2 of the Act,

which reads thus:-

"(21) "light motor vehicle" means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which, does not exceed 7,500 kilograms."

Since the driver was holding LMV Licence, therefore, it cannot be said that there was a breach of the terms and conditions of the insurance policy.

Keeping in view the aforementioned facts and circumstances, I do not intend to differ with the findings rendered by the learned Tribunal, much less, no ground is made out for interference and accordingly, the appeal is dismissed.

02.12.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**