IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.10042 of 2014 (O&M)
Date of decision : July 31, 2017

Nepal Singh and another

...Appellants

Versus

Bishan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Surinder Dagar, Advocate for the appellants.

Mr. Karan Singh, Advocate for respondent Nos.1 to 3.

Mr. Arun Sharma, Advocate for
Mr. T.K. Joshi, Advocate for respondent No.4.

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ANIL KSHETARPAL, J.

The driver and owner of the vehicle involved in an accident have filed the present appeal against the award passed by the Motor Accident Claims Tribunal, Palwal.

The appellants are aggrieved of the fact that Insurance Company has been absolved and the recovery has been ordered only against the appellants jointly and severally although the vehicle was insured. The Motor Accident Claims Tribunal has absolved the Insurance Company on the ground that the vehicle was being used for commercial purposes although it was tractor-trolly having Farmer Package Policy. The driver was also not having a valid driving licence as he was driving the tractor and he was authorised to drive only Light Motor Vehicle.

Counsel for the appellants has pointed out that there was no evidence available on the file to prove that the vehicle was being used for commercial purposes. Counsel has brought to my notice the statement of PW1 Des Raj, an eye-witness. A careful reading of the statement would show that PW1 Des Raj has not stated that the vehicle was being used for commercial purposes. The respondent(s) did not produce any evidence. Therefore, the finding of the Court that the vehicle was being used for commercial purposes is without any evidence available on the file. Even no suggestion was given by PW1 Des Raj to the effect that vehicle was being used for commercial purposes.

The learned Motor Accident Claims Tribunal had recorded a finding that the claimant was not authorized to drive the tractor.

I have seen the driving licence which is available at page No.59 of the record.

A reading of the driving licence would show that driver was authorized to drive Light Motor Vehicle, Heavy Motor Vehicle and Heavy Passenger Vehicle, therefore, the finding of the learned Motor Accident Claims Tribunal to that extent is also erroneous.

Learned counsel for the Insurance Company has not been able to rebut the submissions made by the learned counsel for the appellant.

Taking into consideration the evidence available on the file, I am of the considered opinion that the findings arrived at by the learned Motor Accidents Claims Tribunal absolving the Insurance Company is liable to be set aside.

In view of the discussion made above, the appeal filed by the driver and owner is accepted and the appellant Nos.1 and 2 and Insurance Company-respondent No.4 are held liable to pay the compensation jointly and severally.

Accordingly, present appeal is allowed.

31.07.2017 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**