

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

**FAO No.3462 of 2013 (O&M)
Date of Decision: 21.12.2017**

United India Insurance Company Limited

...Appellant(s)

Versus

Kanta Ram and others

...Respondent(s)

CORAM:-HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. D.P Gupta, Advocate
for the appellant(s).

Mr. Jitender Dhanda, Advocate
for respondents No.2 & 3.

ANITA CHAUDHRY, J.

This appeal is by the Insurance Company seeking recovery rights.

The accident was caused by a Canter which was driven by respondent No.1. The Tribunal after assessing the compensation has placed the liability upon the Insurance Company.

The Insurance Company had made two fold submissions before the Tribunal. Firstly that the driver was not competent to drive the transport vehicle as he was holding the licence to drive light motor vehicle and he had no permit, therefore, there was a breach of the policy.

The Tribunal on perusal of the Registration Certificate noted that the unladen weight was 5,219 kgs and it was less than 7,500

kgs which was required for a light motor vehicle. It was also observed that the Insurance Company had failed to prove that special permit was required to ply and the argument was rejected.

The counsel appearing for the Insurance Company has urged that the definition of light motor vehicle, if examined minutely, would show that for a transport vehicle, it is the gross vehicle weight which has to be considered and for the other vehicles it is the unladen weight and it should not exceed 7,500 kgs and the gross vehicle weight as per the Registration Certificate Ex.R-2 was 11,900 kgs and it would fall under the medium goods vehicle and the Tribunal has had given a perverse finding and had wrongly placed the responsibility of payment of compensation upon them.

On the other hand, the submission on behalf of the owner-driver was that the appellants were reading something in the definition which does not exist and unladen weight of the vehicle was 6,210 kgs which was less than 7,500 kgs.

It would be necessary to notice the definition given under Section 2(21) of Motor Vehicle Act, 1988, which reads as under:-

*“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 7500 kgm”. (emphasis is mine).*

Perusal of the above would show that for a transport vehicle and for a omnibus, it is the gross vehicle weight which does not exceed 7,500 kgs and it would be considered as a light motor vehicle For the other vehicles, defined there, namely, a motor car, tractor or

road-roller, the unladen weight should not exceed 7,500 kgs.

For a heavy goods vehicle the gross vehicle weight is over 12000 kgs.

The gross vehicle weight of the Canter was 11,900 kgs. The driving licence of Malkiat Singh is available on record which shows that he had the licence to drive a light motor vehicle as well as a heavy motor vehicle.

No evidence had been led by the Insurance Company to show that the Licensing Authorities separately issues licences for the medium goods carriages. It is necessary to notice here the definition of Section 10 of the Motor Vehicles Act, 1988 and also the definition of driving licence. Driving licence has been defined in [Section 2\(10\)](#) of the Act. The section is extracted hereunder:-

“2 (10) “driving licence” means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive, otherwise than as a learner, a motor vehicle or a motor vehicle of any specified class or description;”

It is apparent from the definition of driving licence that licence is issued authorizing the person specified in the licence to drive a motor vehicle or a motor vehicle of any specified class or description. Significantly, the definition of ‘driving licence’ categorizes the licence of any specified class or description.

[Section 10](#) deals with the Form and contents of the licences to drive. [Section 10](#) as it stood before its amendment made in the

year 1994 by virtue of [Amendment Act 54](#) of 1994 is extracted hereunder:-

“10. Form and contents of licences to drive.--(1) Every learner's licence and driving licence, except a driving licence issued Under [Section 18](#), shall be in such form and shall contain such information as may be prescribed by the Central Government.

(2) A learner's licence or, as the case may be, driving licence shall also be expressed as entitling the holder to drive a motor vehicle of one or more of the following classes, namely:-

- (a) motorcycle without gear;*
- (b) motorcycle with gear;*
- (c) invalid carriage;*
- (d) light motor vehicle;*
- (e) medium goods vehicle;*
- (f) medium passenger motor vehicle;*
- (g) heavy goods vehicle;*
- (h) heavy passenger motor vehicle;*
- (i) roadroller;*
- (j) motor vehicle of a specified description.””*

It is apparent from the pre-amended provision that class or description of the vehicle for which licence used to be issued were categorized inter alia as light motor vehicle, medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle, heavy passenger motor vehicle and motor vehicle of a specified description. Transport vehicle was not a separate class, and it could be under [section 10\(1\)](#) (d) to (h).

The amendment had been made in [section 10](#) by virtue of [Amendment Act 54](#) of 1994. Post the amendment, clauses e, f, g & h were amended and the provisions of Section 10 are extracted hereunder:-

“10. Form and contents of licences to drive.--(1)

Every learner's licence and driving licence, except a driving licence issued Under [Section 18](#), shall be in such form and shall contain such information as may be prescribed by the Central Government.

(2) A learner's licence or, as the case may be, driving licence shall also be expressed as entitling the holder to drive a motor vehicle of one or more of the following classes, namely:-

(a) motorcycle without gear;

(b) motorcycle with gear;

(c) invalid carriage;

(d) light motor vehicle;

(e) transport vehicle;

(f) – (h)

(i) road-roller;

(j) motor vehicle of a specified description.”

Prior to the amendment in 1994 the licence for a transport vehicle was covered under 5 categories, namely, Section 10(2) (e) to (h). After the amendment, Section 10 does not contain a separate clause of transport vehicles for medium or heavy categories vehicles and the expression used in Section 10(e) is transport vehicle. In ***'Mukund Dewangan Vs. Oriental Insurance Company Limited, 2017(4) R.C.R.(Civil) 111'***, the Apex Court has held that no specific

endorsement is required to drive a transport vehicle and the issue stands settled. Therefore, the position is that after the amendment carried out in the Motor Vehicles Act, 1988 there is no licence required for medium goods vehicles, and there is only one category which is transport vehicle. Since the driver had a licence for a heavy goods vehicle, which is a transport vehicle and this licence would be valid for all transport vehicles. Reference is also made to '***Oriental Insurance Company Limited Vs. Khiramani and others, 2012 ACJ 1604***'.

I find no merit in the appeal. The appeal is dismissed.

December 21, 2017

ps-l

**(ANITA CHAUDHRY)
JUDGE**

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No