IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-385-2014 (O&M)
Date of decision:- 25.09.2017

United India Insurance Co. Ltd.

...Appellant

Versus

Sedhu Ram and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Suvir Dewan, Advocate, for the appellant.

Mr. Mohit, Advocate,
for Mr. R.A. Sheoran, Advocate, for respondent No.1.

Mr. Ramender Chauhan, Advocate, for respondent No.2. .

****

RITU BAHRI J. (Oral)

Present appeal has been filed by the appellant-United India Insurance Co. Ltd. against the Award dated 12.08.2013, passed by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal'), whereby the claimant has been awarded a compensation of ₹1,59,585/- on account of injuries suffered in a motor vehicular accident on 18.6.2012.

Briefly the facts of the case are that on 18.06.2012, respondent No.1-Sedhu Ram along with his son Jai Parkash had gone to Bhiwani for taking pension from Punjab National Bank and after finishing the work, they were going back to their village. At about 11.30 am, due to closing of railway crossing, they were going by the side of bridge. The motor cycle was being driven by Jai Parkash at a very slow speed and on correct side of the road. When they reached near the bridge, in the meantime, a auto bearing registration No.HR-69-5323 being driven by respondent No.2-Surender Kumar in a rash and negligent manner and at a high speed came there and struck against their motorcycle. Due to impact of the accident, respondent No.1 sustained serious injuries of his person. Auto driver disclosed his name as Surender son of Prahlad Singh and fled away from the spot. In this regard, FIR No.395 dated 18.06.2012, under Sections 279, 337 and 338 IPC was registered in Police Station City Bhiwani.

Consequently, the claimant-respondent No.1 filed a claim petition before the Tribunal.

Learned counsel for the appellant-Insurance Company submits that Insurance Company has filed the present appeal with respect to issue No.3 that whether respondent No.1 was having a valid driving licence at the time of accident or not?

On issue No.3, the Tribunal has examined the driving licence mark Ex.R1, which entitled the driver to drive motorcycle with gear and LMV. There was no endorsement in the licence to drive auto-rickshaw. This finding on issue No.3 has been given by the Tribunal in view the judgments passed in **United India Insurance Company Ltd.** **Vs**. **Anil Kumar & Ors.,** **1(2007) ACC 691 (DB (P&H)**; **National Insurance Co. Ltd.** **Vs**. **Annappa Irappa Nesaria and others**, **2008 ACJ 721** and **Prem Singh** **Vs**. **Baldasi and others**, **2010 ACJ 725 (Himachal)**.

Learned counsel for respondent No.2 has placed on record the copy of recently passed judgment in case **Mukund Dewangan** **Vs**. **Oriental Insurance Co. Ltd.**, **2017 ACJ 2011** whereby the above-said aspect has been considered by the Hon'ble Supreme Court and it has been held that driving licence to drive light motor vehicle is competent to drive transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg or a motor car or tractor or road-roller. There was no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class. Hence, a licence issued under Section 10(2)(d) continues to be valid after amendment vide Act 54 of 1994 in MV Act. Further, in paragraph 46, the Apex Court has 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 road-roller, 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)(3), 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."

Keeping in view the above-said judgments, as no ground for interference is made out in the impugned Award, therefore, the present appeal filed by appellant-United India Insurance Co. Ltd., is hereby dismissed.

September 25, 2017 **(RITU BAHRI)**
naresh.k **JUDGE**

Whether speaking/reasoned	Yes
Whether reportable	No