

**FAO No. 4320 of 2015((O&M)
Date of Decision: 10.8.2017**

Rakesh Kumar and another

---Appellants

versus

Mamta Rani and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. S.S.Bairagi, Advocate
for the appellants**

**Mr. Rajesh K.Sharma, Advocate,
for respondent No. 5**

Rekha Mittal, J.

The present appeal directs challenge against award dated 17.2.2014 passed by the Motor Accidents Claims Tribunal Ambala (in short “the Tribunal”) whereby compensation has been awarded in regard to death of Ram Kumar in a motor vehicular accident that took place on 31.8.2012.

Counsel for the appellants would contend that the Tribunal has committed a serious error while determining issue No. 3 in favour of the insurance company by upholding their plea that driver of the offending vehicle was not holding a valid driving licence and resultantly giving right of recovery to the insurer against insured and driver of the offending vehicle. It is further submitted that as driver of tata Sumo was holding a driving licence for driving scooter/car/Jeep, he was competent to drive any light motor vehicle including a tata sumo, therefore, the driver was

possessing a valid driving licence.

Paramjit Kaur Saini
2017.08.16 16:04
I attest to the accuracy and
integrity of this document

Another submission made by counsel is that gross vehicle weight of tata sumo is less than 2700 kgs, the driver was competent to drive the vehicle on the basis of licence hold by him. In support of his contention, he has referred to latest judgment of Hon'ble the Supreme-----

Counsel has further contended that in the case at hand, the gross vehicle weight was less than 7500 Kgs., therefore, the driver possessing a driving license of light motor vehicle is competent to drive the vehicle in question.

Counsel representing the insurance company is not in a position to say something in the matter in view of what has been held by Hon'ble the Supreme Court of India in the judgment cited by counsel for the appellants.

I have heard counsel for the parties, perused the paper book particularly the award passed by the Tribunal.

Counsel for the insurance company, in the light of enunciation laid down by Hon'ble the Supreme Court of India in the referred authority is not in a position to say something in the matter. In view of the above, contention raised by counsel for the appellant with regard to driver of the offending vehicle not holding a valid driving license at the time of accident is untenable and ordered to be rejected.

(Rekha Mittal)
Judge

10.8.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No