

In the High Court of Punjab and Haryana at Chandigarh

FAO- 4022 of 2015(O&M)
Date of Decision: 23.8.2017

Sunil Kumar and another

---Appellants

versus

Ikbal Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Sandeep Verma, Advocate
for the appellants**

**Mr. Akash Sridhar, Advocate,
for Mr. Ashwani Talwar, Advocate
for respondent No. 2**

Rekha Mittal, J.

The driver and owner of Auto Rickshaw No. HR- 67A-4793 have preferred this appeal to assail findings of the Motor Accidents Claims Tribunal, Panipat (hereinafter to be referred to as “the Tribunal”) whereby it has been held by relying upon judgment of Hon'ble the Supreme Court of India ***Oriental Insurance Company vs. Angad Kol and others, 2009(2) Recent Civil Reports (Civil) 419*** that Sunil Kumar respondent No. 1 driver of the offending vehicle was not holding a valid driving licence to drive a light transport vehicle for want of endorsement to this effect on his licence for driving light motor vehicle i.e. car, jeep, scooter and motor cycle. As a consequence of these findings, insurance company has been conferred with right to recovery from the driver and owner of the offending vehicle after satisfying the award towards claimant.

Counsel for the appellants would submit that as gross weight of the vehicle in question is less than 7500 kgs, driving licence possessed by the driver is good enough in the eye of law to make the driver competent to drive the vehicle. In support of his contention, he has placed reliance upon the latest pronouncement of Hon'ble the Supreme Court of India **Mukund Dewangan vs. Oriental Insurance Company Limited 2017(7) Scale 731.**

Counsel representing the insurance company, in the light of enunciation laid down in para 46 of the referred authority, has nothing to submit to counter the submissions made by counsel for the appellants or to support findings of the Tribunal. In this view of the matter, findings recorded by the Tribunal in para 31, 32 and 33 that driver of the offending vehicle was not holding a valid licence to drive the vehicle in question cannot be allowed to sustain and liable to be set aside. Resultantly, the insurance company shall be jointly and severally liable to pay compensation without any right of recovery against the driver and owner of the offending vehicle.

For the foregoing reasons, the appeal is allowed in the aforesaid terms.

(Rekha Mittal)
Judge

23.8.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No