

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

Date of Decision:- 08.11.2017

1. FAO No. 4102 of 2015 (O&M)

Sh. Ram General Insurance Co. Ltd.Appellant

Versus

Ravi alias Ravinder & Ors. ...Respondents

2. FAO No. 4103 of 2015 (O&M)

Sh. Ram General Insurance Co. Ltd.Appellant

Versus

Ravi alias Ravinder & Ors. ...Respondents

3. FAO No. 5308 of 2015 (O&M)

Sh. Ram General Insurance Co. Ltd.Appellant

Versus

Ravi alias Ravinder & Ors. ...Respondents

4. FAO No. 5344 of 2015 (O&M)

Sh. Ram General Insurance Co. Ltd.Appellant

Versus

Ravi alias Ravinder & Ors. ...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep Berwal, Advocate, for the appellants.

Mr. S. S. Sidhu, Advocate, for the respondents

AVNEESH JHINGAN, J. (Oral)

Appeals No. 4102, 4103 and 5308 of 2015 have been filed

against the award dated 02.03.2015 and FAO No. 5344 of 2015 has been filed against the award dated 13.05.2015, passed by Motor Accidents Claims Tribunal, Palwal (for short, 'the Tribunal').

The only legal issue raised in these appeals is whether there was a necessity of getting an endorsement on the driving licence of transport vehicle when the licence was of LMV.

The legal position has been authoritatively settled by Hon'ble Apex Court in case of **Mukand Dewegan Vs. Oriental Insurance Co. Limited, 2016(4) SCC 298**. The Hon'ble 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 roadroller, 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)(e), 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.”

Law enunciated in the above decisions is that a light motor vehicle would include the transport vehicle as per the weight prescribed under Section 2(21) read with Section 2(15) and 2(48). There is no need to obtain separate endorsement to drive transport vehicle.”

From perusal of the above decision it is evident that Hon'ble Apex Court has held that a driving licence which is valid for LMV is valid for driving of the transport vehicles of the same category.

In the present case, the motor vehicular accident occurred between two three wheelers bearing registration No. HR-73-4165 and HR-73-1310 (for short, 'the offending vehicle'). The driver of the offending vehicle was holding licence of LMV. The insurance company had filed these appeals on the ground the they should be awarded recovery rights as the licence was not endorsed for transport vehicles.

The counsel for both the sides candidly submitted that the issue involved is covered by the decision of the Hon'ble Apex Court.

There is no merit in the appeals. The same are dismissed.

November 08, 2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No