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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO-6810-2014 (O&M)

Date of decision : 01.12.2017

Sunil and another

... Appellant(s)

Versus

Chanderparti and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Rajesh Sheoran, Advocate  
for the appellants.

Mr. Sant Lal Barwala, Advocate  
for respondent Nos.1 and 2.

Mr. Rajneesh Malhotra, Advocate  
for respondent No.3.

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**AMIT RAWAL, J. (ORAL)**

**CM-18449-CII-2014**

For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed and the delay of 125 days in filing the appeal is condoned.

**FAO-6810-2014**

The appellants-driver and owner are aggrieved of the award passed by the Motor Accident Claims Tribunal, Hisar (in short 'the Tribunal'), whereby the compensation to the tune of ₹ 3,42,000/- along with interest @ 7.5% on account of death of Kulwant, in a vehicular accident occurred on 05.04.2012, has been awarded to respondent Nos.1 and

2/claimants by fastening the liability to pay the compensation upon them.

Learned counsel for the appellants-owner and driver submits as per the registration certificate, the seating capacity of the vehicle though was 7+1, but unladen weight was 2600 kgs and as per the definition of LMV as enshrined under sub-Section 21 of Section 2 of the Motor Vehicles Act, "Light Motor Vehicle" means a transport vehicle the unladen weight of which does not exceed 7,500 kgs. The driving licence, which the driver possessed was for LMV, but having not appreciated such aspects, the Tribunal has committed illegality and perversity in exonerating the Insurance Company/respondent No.3 from indemnification.

Learned counsel appearing on behalf of respondent No.3/Insurance Company submits that the Driver was having a driving licence of LTV, Tractor, Motor Cycle, Car and Jeep, therefore, the aforementioned class of vehicle would not fall under the definition of LMV, rightly so, the Insurance Company has been exonerated from indemnification, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a force and merit in the submission of Mr. Rajesh Sheoran, for, the driving licence (Ex.R-1) brought on record, no doubt, is valid for driving LTV, Tractor, Motor Cycle, Car and Jeep, but as per the registration certificate, the Tata Magic (Munna Bhai) owned by Sunil son of Umed Singh, was having seating capacity of 7+1, with unladen weight of 2600 kgs.

In order to appreciate the aforementioned controversy as to whether the aforementioned driving licence would fall within the definition

of LMV as enshrined under sub-Section 21 of Section 2 of the Motor Vehicles Act, it would be apt to reproduce the aforementioned provisions, which reads as under:-

*"(21) '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 7,500 kilograms."*

The Government of India had caused a notification dated 14.11.1994, bringing the aforementioned class of vehicles under the definition of LMV. In view of such fact, a person having driving licence of LTV, Tractor, Motor Cycle, Car and Jeep, would be entitled to drive Tata Magic as the description of vehicle in the registration certificate was shown as LMV. Since the unladen weight was 2600 kgs., therefore, the vehicle would be considered to be as an LMV and transport vehicle. The observations/findings of the Tribunal, in my view, are not sustainable in the eyes of law and the same are hereby set aside and only the Insurance Company would be responsible being an indemnifier.

Resultantly, the appeal is allowed and the award is modified to the aforementioned extent.

**CM No.18451-CII of 2014**

There is an application under Section 173 of the Motor Vehicles Act read with Section 151 of the Code of Civil Procedure for exemption from depositing the requisite amount from filing the appeal.

Since the appeal of the appellants-owner and driver is allowed by fastening the liability to pay the compensation upon the Insurance Company, the application is allowed in the peculiar facts and circumstances

of the present case. However, it shall not be considered as a precedent.

01.12.2017  
Yogesh Sharma

( AMIT RAWAL)  
JUDGE

|                           |         |
|---------------------------|---------|
|                           | ✓       |
| Whether speaking/reasoned | Yes/ No |
|                           | ✓       |
| Whether Reportable        | Yes/ No |