IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 9400 of 2014 (O&M)
Date of Decision: 26.09.2017

Sonu

... Appellant

vs.

Sohan Lal & Anr.

... Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present:- **Mr. N.R. Dahiya, Advocate**
for the appellant.

Mr. Harish Bhardwaj, Advocate
for respondent No.1.

Mr. Subhash Goyal, Advocate
for respondent No.2.

ANITA CHAUDHRY, J.

The instant appeal has been preferred by the owner-driver of the offending vehicle to the extent the liability has been fastened upon him to satisfy the award.

The Tribunal had awarded compensation of Rs.2,14,300/- to Sohan Lal respondent for the injuries received by him in the accident which occurred on 19.08.2011 due to rash and negligent driving by the appellant. The insurance company was exonerated and liability was fastened upon the appellant as he was authorized to drive LMV, whereas at the time of accident he was driving a auto rickshaw meant for transportation of passengers, for which an endorsement was required as stipulated under Section 3 of the Motor Vehicles Act.

Learned counsel for the appellant did not touch on the quantum. His contention was that no special endorsement was required and LMV would include a transport vehicle, but the Tribunal below has erred in exonerating the insurance company by deciding the issue against him. In support of his contention, reliance had been placed on **Mukund Dewangan Vs. Oriental Insurance Company Limited 2017 AIR(SC) 3668.**

Learned counsel for the respondents have failed to controvert the legal position.

The issue, whether the license to drive LMV also entitles the holder to drive commercial/ transport vehicle or a special endorsement is required in this regard, is no more *res integra* as per the law laid down in Mukund's case (supra). In that case, taking into consideration, catena of judgments, the Hon'ble Apex Court concluded that when a driver is holding a licence to drive 'light motor vehicle', he is competent to drive a 'transport vehicle' of that category without specific endorsement to drive the transport vehicle.

In this view of the matter, the findings returned by the Tribunal that the appellant was not authorized to drive the vehicle, are not sustainable and are set aside.

It has come on record and not in dispute that the vehicle was insured with respondent No.2 and the vehicle was covered at the time of accident. The insurance company was exonerated only because it was held that the appellant was not authorized to drive the vehicle. But, once it has been held that there was no requirement of special endorsement on the licence, the insurance company is obliged to indemnify the claimant to the extent the compensation was assessed by the Tribunal for the injuries received in the accident.

In view of the above, the instant appeal is allowed. The award passed by the Tribunal is modified to the extent that respondent No.2-Reliance General Insurance Company will satisfy the award by paying the compensation assessed by the Tribunal to respondent No.1-claimant.

26.09.2017 **(ANITA CHAUDHRY)**
Jiten **JUDGE**

Whether speaking/ reasoned Yes/ No

Whether reportable Yes/ No