IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC-67-CII-2015 (O&M) in/and
FAO No.2888 of 2013 (O&M)
Date of decision : 26.10.2017

Reliance General Insurance Company Ltd.

...Appellant

Versus

Bhateri and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Manmohan, Advocate for
Mr. Suman Jain, Advocate for the appellant.

Mr. Anil Kumar Gahlawat, Advocate for
Cross-Objectors/respondent Nos.1 to 3.

Mr. Ramesh Hooda, Advocate for respondent No.4.

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ANIL KSHETARPAL, J.

CM No.8271-CII of 2015 in XOBJC No.67-CII of 2015

For the reasons stated in the application, which is duly supported by an affidavit, delay of 605 days in filing the cross-objections is condoned.

Application is allowed.

Main Case

By this common judgment, appeal filed by the Insurance Company and Cross Objections filed by the claimants are being disposed of.

Insurance Company had filed this appeal on the ground that the respondent No.4, the owner and driver of three-wheeler was not having a proper driving licence.

The driver was authorized to drive a light motor vehicle. The Insurance Company had contended that in view of Section 3 of the Motor Vehicles Act, 1988, no person can drive a transport vehicle unless he holds effective driving licence.

In a recent judgment passed by the Hon'ble Supreme Court in case titled as *Mukand Dewangan Vs. Oriental Insurance Company Limited, 2017(7) Scale 731*, the issue has been decided and it has been held as under:-

> *"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 road-roller, 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(e)(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."*

Hence, there is no force in the appeal filed by the Insurance Company.

Claimants have filed Cross-Objections seeking enhancement. The Motor Accident Claims Tribunal has awarded compensation to the tune of ₹5,43,000/- on account of death of late Sh. Jiwan who unfortunately expired due to the injuries sustained in a motor vehicle accident which took place on 31.08.2011. The Tribunal while awarding the compensation has awarded ₹10,000/- towards loss of consortium and ₹5,000/- for funeral expenses.

As per the judgment passed by the Hon'ble Supreme Court in the case titled as *Rajesh and others Vs. Rajbir Singh and others, 2013(9) SCC 54*, widow and children are entitled to a sum of ₹1,00,000/- for loss of consortium, ₹25,000/- for funeral expenses and ₹1,00,000/- for love and affection. Therefore, the compensation payable to the claimants is enhanced under the following heads:-

HEADS	***AWARDED BY MACT***	***AWARDED BY HIGH COURT***
Loss of consortium	₹10,000/-	₹1,00,000/-
Funeral Expenses	₹5,000/-	₹25,000/-
Love and Affection	NIL	₹1,00,000/-
Total	₹15,000/-	₹2,25,000/-

The enhanced amount i.e. ₹2,10,000/- shall attract interest at the rate of 7.5% p.a. from the date of accident till the date of payment.

Appeal filed by the Insurance Company is dismissed, whereas Cross-Objections filed by the claimants are allowed in the manner indicated above.

All the pending miscellaneous applications are disposed of, in view of the abovesaid judgment.

26.10.2017 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No