

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

FAO No.2015 of 2012 (O&M)

Date of Order: 18.09.2018

Iffco Tokio General Insurance Company Ltd.

....Appellant

Versus

Chanderpati and others

...Respondents

CORAM: HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Rajesh Bansal, Advocate for the appellant.

Mr. Ashwani Gaur, Advocate
for respondent Nos.1 to 7.

None for respondent No.8.

Mr. Rajesh K.Kataria, Advocate
for respondent Nos.9 and 10.

B.S.WALIA, J (ORAL)

1. The sole contention of learned counsel for the appellant is that once the driver of the offending vehicle was not having a valid driving license as he was holding a driving license to drive a light motor vehicle only, whereas the offending vehicle was a transport vehicle, recovery rights ought to have been granted in favour of the insurance company-appellant herein by the learned Motor Accidents Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal').

2. Legal position in respect of aforementioned proposition has been settled by Hon'ble the Supreme Court in case of **Mukand Dewegan Vs. Oriental Insurance Co. Limited, 2016(4) SCC 298**, wherein it was 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 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(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."

3. As per the aforementioned decision, Hon'ble the Supreme Court has categorically held that a person having a license to drive a light motor vehicle is competent to drive a transport vehicle as well. In the instant case, the motor vehicular accident took place when the auto rickshaw being driven by respondent No.10 turned turtle on account of a pit in the road. The auto rickshaw driver was holding a valid driving license

to drive a light motor vehicle. It has not been disputed rather it has been conceded by learned counsel for the parties that the gross weight of the auto-rickshaw is much less than 7500 kg. In the circumstances, as driver of the *auto rickshaw* was having a license to drive 'Light Motor Vehicles', therefore, he was competent to drive a *auto-rickshaw* since its gross-weight did not exceed 7500 kg. and no separate endorsement was required on the license to drive a transport vehicle of L.M.V. category. Accordingly, the matter in issue is squarely covered by the decision of Hon'ble the Supreme Court in *Mukand Dewegan's* case (Supra).

4. In the light of the position as noted above, I find no merit in the appeal. The same is dismissed.

September 18, 2018

rajesh.k.khurana

(B.S.WALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No