

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

FAO No.6268 of 2012(O&M)

Date of decision: 8.5.2018

National Insurance Co. Ltd.

.....Appellant

VERSUS

Krishan Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Neeraj Khanna, Advocate for the appellant.

Mr. Sandeep Punchhi, Advocate for respondents No.1 and 2.

Mr. B.S. Mittal, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 13.09.2012 passed by the Motor Accidents Claims Tribunal, Sirsa (in short 'the Tribunal') whereby compensation has been awarded on account of death of Sarwan Kumar aged 13 years in a motor vehicular accident that took place on 06.05.2011.

Counsel for the appellant-insurance company would inform that appeal has been preferred to challenge findings of the Tribunal on the question of driving licence and quantum of compensation assessed by the Tribunal. With regard to driving licence, counsel would urge that as the vehicle is TATA (S) which is a transport vehicle, driver was not competent to drive the vehicle for want of endorsement of transport. Compensation of Rs.3,25,000/- awarded by the Tribunal is stated to be on higher side.

Counsel representing respondents No.1 and 2 has supported findings of the Tribunal on both the aforesaid questions raised by counsel for the insurance company.

Counsel for the insurance company, in response to a query, would inform that gross vehicle weight is less than 7500 KG. That being so, the vehicle falls within the definition of Light Motor Vehicle under Section 2 (21) of the Motor Vehicles Act, 1988. Indisputably, driver possessed licence to drive the Light Motor Vehicle. When the facts and circumstances of the present case are examined in the light of judgment of Hon'ble the Supreme Court **Mukund Dewangan vs. Oriental Insurance Company Limited, 2017(7) Scale 731,** contention raised by the insurance company with regard to incompetency of the driver to drive the vehicle in question is not meritorious and liable to be rejected.

With regard to death of a child aged 13 years, the Tribunal has awarded compensation of Rs.3,25,000/- and the same, in no terms, can be said to be excessive warranting intervention.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed. No order as to costs.

MAY 8, 2018

'D. Gulati'

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no