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

**FAO No.2334 of 2013 (O&M)**
**Date of Decision: 21.02.2018**

**Babu Ram and another .......Appellants**

**Vs.**

**Smt.Rajni Sharma & Others ........Respondents**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

**Present:-** Mr.Rakesh Bakshi, Advocate, for respondents No.1 and 2.

Mr.R.C.Gupta, Advocate, for respondents No.1 to 4 and 7.

Mr.Arun Sharma, Advocate, for
Mr.T.K.Joshi, Advocate, for respondent No.6.

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**RITU BAHRI, J. (ORAL)**

Present appeal has been preferred by the appellants i.e. driver and owner of the offending vehicle against award dated 22.08.2012, passed by the learned Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal') vide which liability was fixed for making payment to the claimants by the appellants.

A perusal of the Award shows that learned counsel for respondent/Insurance company had argued that even though the vehicle was registered as private vehicle but admittedly the vehicle was being used for commercial purposes and the appellant No.1 herein i.e. driver of the offending vehicle was having driving licence authorizing him to drive motor cycle, scooter, car and jeep and therefore, the driver did not have valid and effective driving licence and the respondent No.2 i.e. owner had committed breach of the terms of the conditions of the insurance policy. Therefore, Insurance Company is not liable to pay compensation to the claimants. Accordingly, respondent/Insurance Company was absolved from the liability to pay compensation to the claimants by the learned tribunal vide impugned award dated 22.08.2012.

Learned counsel for the appellants submits that the offending vehicle was registered as private vehicle and the appellant No.1 was having licence for Light Motor Vehicle authorizing him to drive scooter, motor cycle, car and jeep and therefore appellant No.1 had valid and effective driving licence and there was not breach of terms and the insurance company is liable to indemnify the insured. He has referred to the judgment of the Hon'ble Supreme Court in the case of **Mukund Dewangan vs. Oriental Insurance Company Limited in civil appeal NO.5826 OF 2011** wherein, it is held that 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.

In view of the above, the appeal is partly allowed and the Award of the Tribunal dated 22.08.2012, is modified only to the extent that appellants i.e. driver and owner and respondent/Insurance Company are liable to pay compensation to the claimants jointly and severally.

**(RITU BAHRI)**
**JUDGE**

**21.02.2018**
*anil*

*Whether speaking/reasoned Yes/No*

*Whether reportable Yes/No*