

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 166 of 2014 (O&M)

Date of Decision : 23.01.2018

Shri Ram General Insurance Company Ltd.

....Appellant

Versus

Taro Devi and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Tajender Joshi, Advocate
for the appellant.

Mr. Vishal Munjal, Advocate
for respondent no. 1 and 2.

None for respondent no. 3.

Surinder Gupta, J.

This is appeal filed by Shri Ram General Insurance Co. Ltd.
(insurer of the offending vehicle) Three-Wheeler bearing registration no.
PB-01-J-2603 against award dated 09.07.2013 passed by Motor Accident
Claims Tribunal, Pathankot, awarding compensation of ₹2,79,500/- to
claimants (respondents no. 1 and 2).

2. As the short point raised by learned counsel for the appellant
is with regard to validity of driving licence of driver of the offending
vehicle, detailed facts of the case are being skipped for the sake of
brevity.

3. Learned counsel for the appellant has argued that driver of
the offending vehicle was holding driving licence to drive 'Light Motor
Vehicle', which was not valid to drive the 'Transport Vehicle' i.e. Three-
wheeler, as such, the same was not valid. This has resulted in breach of
terms of insurance policy for which insurance company is to be provided

recovery rights against owner and driver of the offending vehicle.

4. Above contention of learned counsel for the appellant carries no weight as insurance company has not produced any evidence on file to prove that driving licence of respondent no. 3 was not valid. Though, insurance company has summoned clerk of DTO Office, Gurdaspur regarding driving licence in the name of driver of the offending vehicle but on 04.04.2013, it was submitted before the Tribunal that record of the driving licence has been verified and summoning of clerk of DTO Office, Gurdaspur is not required.

5. On perusal of file of the Tribunal, I find that even driving licence of driver of the offending vehicle was not produced in evidence. Even if submission of learned counsel for the appellant be accepted that driver of the offending vehicle was holding the licence to drive 'Light Motor Vehicle', as per observations of three Judges Bench of Hon'ble Apex Court in case of **Mukund Dewangan vs. Oriental Insurance Company Ltd., 2017 (4) RCR (Civil) 111** he was competent to drive transport vehicle or mini bus not exceeding 7500 kgs. in weight. Observations in above referred case to this effect are reproduced as follows:-

“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.”

6. Above observations squarely answered submissions of learned counsel for the appellant.

7. No other argument has been put forth by learned counsel for the appellant.

8. As a sequel of my above discussion, the instant appeal has no merit and the same is dismissed.

January 23, 2018
jk

(SURINDER GUPTA)
JUDGE