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

FAO No.2141 of 2014 (O&M)
Date of Decision: April 25, 2018.

National Insurance Company Limited

..........APPELLANT(s).

VERSUS

Leela Rani and others

........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for the appellant (s).

None for respondent No.1.

Mr. Sushil Bhardwaj, Advocate
for respondents No.2 and 3.

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SURINDER GUPTA, J.

This is appeal by insurance company against the award dated 01.10.2013 passed by the Motor Accident Claims Tribunal, Ambala (later referred to as 'the Tribunal'), vide which the Tribunal has awarded a compensation of ₹96,000/- for the injuries suffered by claimant Leela Rani in a motor vehicle accident, which took place on 21.11.2012 due to rash and negligent driving of 'Activa' Scooter bearing registration No.HR-01-Z-8316 (later referred to as 'the offending vehicle') by respondent No.3-Sakshi Nagpal.

Learned counsel for the appellant has argued that the offending vehicle was insured but the liability of the appellant to pay the amount of compensation is not attracted as respondent No.3-Sakshi Nagpal was holding a learner's driving licence at the time of accident and was not accompanied by any instructor as per provisions of Rule 3 of Central Motor Vehicle Rules, 1989.

Learned counsel for respondents No.2 and 3 has relied on the observations in case of ***Virender Singh and another Vs. M/s IFFCO Tokio General Insurance Company Ltd. and another 2016(2) PLR 499,*** wherein a Co-ordinate Bench of this Court has observed in para 3 of the judgment as follows:-

> "On the same day when the judgment in *Swaran Singh's case (supra)* was disposed of, yet another Bench of the Supreme Court in ***National Insurance Co. Ltd. Vs. Bhagwani and others 2004 4 SCC 347***, reiterated a view and cited *Swaran Singh's case (Supra)* as the governing consideration for liability of the insurer and holding that the learner licence was the valid licence to make the insurer liable. Still later, the point was again put to issue in ***Mahamooda and others Vs. United India Insurance Co. Ltd. And others, 2004 (13) SCC 684***, where the judgments in ***New India Assurance Co. Ltd. Vs. Madar Madhav Tambe and others, 1996 2 SCC 328*** and *Swaran Singh's case* were both considered and the Bench in *Mahamooda's case (supra)* preferred the dispensation in *Swaran Singh's case (Supra)* as the law on the subject. In the light of the above decisions, there is no scope for the insurer to plead that the liability cannot be imposed for violation of the statutory rule under Rule 3 of the Motor Vehicle Rules. requiring an instructor to present."

In view of the above settled proposition of law, the arguments of learned counsel for the appellant have no merits.

No other point has been argued.

Consequently, this appeal has no merits.

Dismissed.

(SURINDER GUPTA)
JUDGE

April 25, 2018.
Sachin M.

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***