IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1403 of 2016
Date of Decision: 27.11.2018

New India Assurance Company Ltd.

......Appellant

Vs.

Sant Ram and others

.........Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. R.C. Kapoor, Advocate,
for the appellant.

Mr. R.S. Longia, Advocate,
for respondent no. 1.

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AMOL RATTAN SINGH, J. (ORAL)

By this appeal, the appellant insurance company challenges the Award of the learned Motor Accidents Claims Tribunal, Kurukshetra, dated 17.11.2015, by which the claimant, i.e. respondents no. 1 herein, was awarded a compensation of Rs. 1,05,948/- on account of the injuries suffered by him as also on account of damage to his motor-cycle in a motor vehicle accident that took place on 23.11.2013.

The insurance company is actually only aggrieved of the finding of the learned Tribunal on issue no. 3, i.e. the liability to pay the compensation amount.

Thus, there is no grievance of the company against the claimant, i.e. respondent no. 1, with even notice in the appeal not having been issued to him, though on the last date of hearing, Mr. R.S. Longia, Advocate, had appeared for him in an application filed by him seeking release of Rs. 25,000/- deposited along with the appeal, the said amount having been deducted by the Tribunal at the time of disbursement of compensation.

As regards the contesting respondents to whom the notice was issued, i.e. the driver and owner of the vehicle insured by the appellant (respondents no. 2 and 3 herein), notices are seen to have been ordered to be issued on 14.03.2016, with service of such notices shown to have been complete even by 23.11.2016, as recorded in the order of this Court of that date.

However, even for the past two years, they have chosen not to appear to defend this appeal and are consequently proceeded against *ex parte*.

Mr. Kapoor, learned counsel for the appellant, points to paragraph 39 of the impugned Award, in which the argument of counsel for the insurance company before the Tribunal is noticed, to the effect that the driver of the vehicle insured by the appellant, i.e. a 'Tempo' bearing registration no. HR-67-9631, (respondent no. 1 before the Tribunal and respondent no. 2 in this appeal), did not have any endorsement on his driving licence allowing him to drive a transport vehicle.

Hence, the contention is that it was not a valid driving licence for the vehicle in question and consequently, the terms of the policy having been violated, the appellant is not liable to indemnify the owner and the driver of the vehicle.

The learned Tribunal, on the other hand, after noticing arguments to the contrary by counsel for the respondents before it, referred to the judgments passed in **National Insurance Company Ltd.** vs. **Annappa Irapa Nesaria alias Nesearagi and others** 2008 (1) RCR 848, **S. Iyyapan** vs. **United India Insurance Company Limited and another** 2013 (3) RCR 654, **Oriental Insurance Company** vs. **Mukesh** 2011 (2) RCR (Civil) 508 and **Bajaj Allianz General Insurance Company Limited** vs. **Balwinder Kaur and others** (FAO No. 314 of 2012), decided on 30.07.2015.

In **Annappas'** case (supra), the Apex Court had, after referring to the provisions of sub-sections (21) and (23) of Section 2 of the Motor Vehicles Act, 1988, as also of Rule 14 of the Central Motor Vehicle Rules, 1989 and Form No. 4 issued thereunder, held as follows:-

> *"20. From what has been noticed hereinbefore, it is evident that transport vehicle has now been substituted for "medium goods vehicle" and "heavy goods vehicle". The light motor vehicle continued, at the relevant point of time to cover both "light passenger carriage vehicle" and "light goods carriage vehicle". A driver who had a valid licence to drive a light motor vehicle, therefore, was authorized to drive a light goods vehicle as well."*

After noticing the above, the judgments in **S.Iyyapans'** case (supra) as also in **Kulwant Singh** vs. **Oriental Insurance Company Ltd.** 2014 (4) RCR (Civil) 977, were also referred to by the Tribunal, essentially to the same effect.

Learned counsel for the appellant very fairly does not deny the fact that even in **Mukund Dewangan** vs. **Oriental Insurance Company Limited** 2017 (4) RCR (Civil) 111, it has been held to the same effect, but he further submits that the issue has been referred to by the Supreme Court to a larger Bench, on the issue of whether, without an endorsement on a driving licence, the holder thereof, (i.e. one holding a licence to drive a light motor vehicle), would or would not be licensed to drive a goods/transport vehicle.

Having considered the matter, it not being deniable even by learned counsel for the appellant that the law as it stands today is to the effect that a person holding a valid driving licence entitling him to drive a light motor vehicle, does not need a separate endorsement upon it for driving a commercial/transport vehicle of the same description, I see no error in the Award passed by the learned Tribunal even as regards the liability of the appellant-insurance company to indemnify the insured, i.e. respondent no. 3 herein.

Consequently, that being so, I see no reason to interfere in the impugned Award, and this appeal is, consequently, dismissed.

November 27, 2018 **(AMOL RATTAN SINGH)**
nitin **JUDGE**

Whether speaking/reasoned	Yes
Whether Reportable	Yes