

FAO No. 729 of 2013(O&M)

Date of Decision: 03.07.2018

Surinder Singh

---Appellant

versus

New India Insurance Company Limited and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Munish Kamboj, Advocate
for Mr. P.S.Jammu, Advocate
for the appellant**

**Mr. D.K.Prajapati, Advocate,
for the insurance company/respondent No. 1**

Rekha Mittal, J.

Registered owner of offending vehicle, Pick Up No DL-1LM-5914 is in appeal to assail findings of the Motor Accidents Claims Tribunal, Faridabad (in short “the Tribunal”) on issue No. 2 on the basis whereof, the insurance company has been given right of recovery against the appellant after payment of compensation to the claimants on the premise that Harish Kumar, driver of the offending vehicle was holding a licence only to drive a light motor vehicle (non transport).

Indisputably, the driver was possessing licence to drive a light motor vehicle and the same is Ex. R-7. Counsel for the insurance company has not disputed that gross vehicle weight of Pick Up van is 2880kgs, therefore, the same falls within the definition of 'light motor vehicle' under Section 2 (21) of the Motor Vehicles Act. When the case is examined in the light of latest judgment of Hon'ble the Supreme Court

Mukund Dewangan vs. Oriental Insurance Company Limited 2017(7)

Scale 731, driver was competent to drive the vehicle in question, therefore, it is difficult to sustain findings of the Tribunal that either the driver was not authorized to drive the vehicle in question or the insurance company can be heard to say that either the insured is guilty of violating the terms and conditions of insurance policy or can press for right of recovery against the insured. The mere fact that the judgment in **Mukund Dewangan's case (supra)** is pending consideration before a Larger Bench is of no consequence at this stage.

No other point has been raised.

For the foregoing reasons, appeal is partly allowed. The insurance company shall be jointly and severally liable to pay compensation without any right of recovery. No order as to costs.

(Rekha Mittal)
Judge

03.07.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No