**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**FAO-6123-2016 (O&M)
Date of decision :27th September, 2018**

Vinod Kumar and another

......Appellants

Versus

National Insurance Company Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sanjay Jain, Advocate
for the appellants.

Mr. V.K. Garg, Advocate
for the respondent No.1.

Mr. Vipul Sharma, Advocate
for Mr. Nitin Mittal, Advocate
for the respondents No.2 and 3.

-*-

DEEPAK SIBAL , J (ORAL)

The appellants are the driver and owner of an auto-rickshaw bearing registration No. HR-37C-6503 which was involved in the accident (for short, the offending vehicle) which caused the death of one Karan. Through the present appeal they challenge the award dated 02.07.2016 passed by the Motor Accident Claims Tribunal, Ambala (for short, the Tribunal) on the ground that it grants rights to the Insurance Company to recover the awarded compensation from the appellants after the Insurance Company has disbursed the same to the claimants.

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that after assessing the compensation to be paid to the claimants, the Tribunal went on to hold that the Insurance Company, after disbursing the awarded compensation to the claimants would have a right to recover the same from the appellants on the ground that the driver of the offending vehicle, held a driving licence authorizing him to drive a light motor vehicle, but since the offending vehicle, an auto-rickshaw carried passengers, it was a transport vehicle and there was no endorsement on the appellant driver's driving licence authorizing him to drive a transport vehicle.

Learned counsel for the appellants cites a recent judgment of the Hon'ble Supreme Court in ***"Mukund Dewangan Vs. Oriental Insurance Company Limited"*** *AIR 2017 SC 3668,* wherein it has been held that in case the driver of the vehicle involved in the accident is authorized to drive a light motor vehicle he would be authorized to drive any motor vehicle, including a transport vehicle, which would have an unladen weight of 7500 kgs and since it is the admitted position that the appellant-driver was holding a valid driving licence authorizing him to drive a light motor vehicle no further endorsement on the same was required permitting him to drive a transport vehicle.

Learned counsel appearing on behalf of respondent Insurance Company very fairly submits that ***Mukund Dewangan's*** case (supra) covers the appellants case in their favour.

In ***Mukund Dewangan's*** case (supra) amongst others the following questions were referred for decision:-

> *"1. What is the meaning to be given to the definition of "light motor vehicle" as defined in Section 2(21) of the MV Act? Whether transport vehicles are excluded from it?*
>
> *2. Whether '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 kgs. and holder of a licence to drive the class of "light motor vehicle" as provided in Section 10(2)(d) would be competent to drive a transport vehicle or omnibus, the "gross vehicle weight" of which does not exceed 7500 kgs. or a motor car or tractor or road roller, the "unladen weight" of which does not exceed 7500 kgs. ?

The aforesaid questions were answered by the Hon'ble Supreme Court as under:-

"(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.

Thus, it was held that in case a driver holds a valid licence to drive a light motor vehicle, he does not need any further endorsement on his driving licence to drive a transport vehicle with unladen weight of 7500 kgs or less.

Contrary to the law laid down in ***Mukund Dewangan's*** case (supra) the impugned award grants rights to the Insurance Company to recover the awarded compensation amount from the appellants only on the ground that though the driver of the offending vehicle was holding a valid driving licence to drive a light motor vehicle there was no separate endorsement on the driving licence permitting him to drive an auto- rickshaw which was a transport vehicle.

In the light of the concession by learned counsel for the respondent-Insurance Company as also the law laid down by Hon'ble the Supreme Court in ***Mukund Dewangan's*** case (supra) the impugned award is set aside to the extent that it grants recovery rights to the Insurance Company to recover the awarded compensation from the appellants.

No costs.

(DEEPAK SIBAL)
JUDGE

27.09.2018
tarun

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No