

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

FAO No. 1528 of 2018(O&M)

Date of decision: 7.5.2018

National Insurance Co. Ltd.

.....Appellant

VERSUS

Krishna Devi and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sandeep Suri, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 02.11.2017 passed by the Motor Accidents Claims Tribunal, Yamunanagar at Jagadhari whereby compensation has been awarded on account of injuries sustained by Krishna Devi, the claimant.

Counsel for the appellant-insurance company would inform that the appeal has been filed only to assail findings of the Tribunal qua issue No.3 particularly on the question of driving licence possessed by Mohammad Akil, driver of Tractor No.UP-11-AA-8729.

Counsel would argue that Pehal Singh PW-5 lodged FIR No.142 dated 30.04.2013 under Sections 279, 338 and 427 IPC in Police Station Sarsawa (Saharanpur) in respect of the accident and in the FIR Ex.P76, it has been mentioned that the tractor in question was attached with two trolleys and in one of the trolleys another tractor was being carried/transported, therefore, licence possessed by the driver to drive Light Motor Vehicle is not sufficient to make him competent to drive the vehicle in question.

Counsel would fairly inform, in response to a query by the Court, that no specific plea was raised by the insurer that the tractor was attached with two trolleys and one of the trolleys had another tractor loaded in it. However, the insurance company raised certain pleas with regard to violation of the insurance policy including that the driver did not have a valid and effective driving licence. The author of the FIR appeared in the witness box but he did not admit the correctness of version with regard to tractor being attached with two trolleys and one of the trolleys had a tractor loaded in it. The insurance company did not adduce any evidence to prove this fact. This apart, there is no evidence on record that the gross vehicle weight was more than 7500 KGs. Otherwise also, if the case is examined in the light of judgments of Hon'ble the Supreme Court **Nagashetty Vs. United India Insurance Co. Ltd., 2001(4) RCR (Civil) 597** and **Mukund Dewangan Vs. Oriental Insurance Co. Ltd., 2017(7) Scale 731**, I find it difficult to accept contention of the insurance company that driver was not competent to drive the vehicle in question. In this view of the matter, findings recorded by the Tribunal negating plea of the insurance company in respect of driving licence are liable to be affirmed and ordered accordingly.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

MAY 7, 2018

'D. Gulati'

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no