



Consequently, the claimant-appellant filed a claim petition under Section 163-A of the Motor Vehicles Act, 1988, before the Tribunal.

After notice of the claim petition, following issues were framed by the Tribunal:-

1. “Whether petitioner Mehar Singh had received injuries in an accident caused due to rash and negligent driving of tractor bearing No. HR-36E-2616, as alleged?OPP
2. If issue No.1 is proved, to what amount the claimant is entitled to and from whom? OPP
3. Whether respondent No.1 was not having a valid and effective driving licence at the time of alleged accident, if so to what effect? OPR
4. Whether the petition is not maintainable in the present form? OPR
5. Whether this court has no jurisdiction to try the present petition? OPR
6. Whether the petitioner is estopped to file the present petition? OPR
7. Relief.”

The Tribunal returned finding on issue No. 1 in favour of the claimant. The claimant had appeared as PW-2 and gave version of the manner of the accident as per the DDR No. 28 dated 09.04.2004 registered at Police Station Bawal (Ex.P1). He further stated that Mahavir Singh-respondent No.1 had called him to work on the thrasher and thrasher was attached with the tractor. The police had taken his statement at Dr. Kaushal Hospital at Rewari. Head Constable Parkash Chand No. 148 (PW1) tendered on record attested and true copy of DDR No. 28 dated 09.04.2004 (Ex.P1). Mahavir Singh-respondent No.1 appeared as RW-1 and stated that he was owner of tractor bearing registration No.HR-36-E-2616 and had a

driving licence (Ex.R2). He stated that Mehar Singh had not been called to work on the thrasher. However, mustard crop was being thrashed.

The plea taken by the insurance company was that thrasher was not plied on the road and it cannot be said that it was an accident out of use of motor vehicle and thrasher can work independently. It is not a motor vehicle even if it runs with the help of tractor. Further Ex.R1 was the insurance policy which had been issued under the farmers package at a premium of Rs.3,716/-. The Tribunal examined the insurance policy (Ex.R1) and as per the insurance policy, the premium of Rs.3,716/- was paid for agricultural instrument i.e. like thrasher which is also deemed to be included in the policy. Thrasher is not separately insured.

The Tribunal further referred judgment passed in ***United India Assurance Company Ltd. V/s. Sardari Lal and others*** 2005(2) ACJT 316 to return a finding that the thrasher can work if it is attached with the tractor even if the tractor was not found on the road. If the tractor was not plied on the road; it did not mean that the accident had not occurred arising out of the use of this motor vehicle. Keeping in view the above said judgment, a finding was given that the accident took place after using the tractor and DDR was registered with respect to the accident.

Learned counsel for the insurance company is challenging the above said finding. This aspect had already been considered in the judgment of ***United India Assurance Company Ltd. (supra)***. On this ground, the award cannot be set aside.

He further argues that respondent No.1/driver had not valid licence to drive tractor. As per the driving licence (Ex.R2), the respondent

No.1/driver had driving licence valid upto 19.05.2014 and he was authorized to drive scooter, motor-cycle, car and jeep. He submits that there was no endorsement on the licence (Ex.R2) to drive tractor.

This issue had already been considered by the Supreme Court in *Mukund Dewangan V/s. Oriental Insurance Company Limited* 2017(4) R.C.R. (Civil) 111 whereby the Supreme Court held that if a person is having licence to drive light motor vehicle, he is competent to drive a 'transport vehicle' of that category without specific endorsement to drive the transport vehicle.

Keeping in view above observations, the appeal is dismissed.

Pending application also stands disposed of.

(RITU BAHRI)  
JUDGE

09.12.2019

Divyanshi

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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |