

432(1/3)

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

FAO No.5566 of 2006
Date of Decision: 15.01.2019

United India Insurance Company Ltd.

Appellant

Versus

Aman Kumar Bansal and another

Respondents

FAO No.5567 of 2006

United India Insurance Company Ltd.

Appellant

Versus

Basant Goel and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.N. Singhal, Advocate
for the appellant [in FAO No.5566 and 5567 of 2006].

Mr. A.K. Goel, Advocate
for respondent No.1 [in FAO No.5566 of 2006].

None for respondent No.2 [in FAO No.5566 of 2006].

None for the respondents [in FAO No. 5567 of 2006].

AVNEESH JHINGAN, J (Oral):

The insurer of three-wheeler bearing registration No. HR-61-0294 [hereinafter referred to as 'offending vehicle'] has challenged the award dated 02.09.2006 passed by the Motor

Accident Claims Tribunal, Bhiwani [for brevity 'the Tribunal'] in MACT No.166 of 2002 and MACT No.167 of 2003. The grievance raised is that the driver of the offending vehicle was not having endorsement on his Driving Licence to drive the Light Transport Vehicles [for brevity 'LTV'].

Two separate appeals have been filed challenging the award. Since both the appeals arise from the same award, these are being disposed of by a common order.

The record of this appeal was burnt and from the salvaged record of the partially burnt cases, the same was reconstructed subject to all just exceptions and further verification.

The facts in brief are that a motor vehicular accident took place on 16.02.2002. As a result of the accident, Basant Goel and Aman Kumar sustained injuries. FIR No. 66, dated 16.02.2002 was registered at Police Station City Bhiwani.

Two claim petitions were filed under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act']. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to rash and negligent driving of the offending vehicle. The insurer and owner-cum-driver of the offending vehicle were held jointly and severally liable to pay the compensation. Compensation was awarded to both the claimants in their respective claim petitions.

Heard learned counsel for the parties, perused the paper

book and relevant documents produced by them.

Learned counsel for the appellant contends that the Tribunal has wrongly mentioned that the driver of the offending vehicle was possessing a Driving Licence authorizing him to drive Motorcycle, Scooter, Car, LTV and Jeep. He relies upon the copy of Driving Licence [Ex.D1] to state that Driving Licence was valid for driving Light Motor Vehicles [for brevity 'LMV'] and not LTV. He raised no dispute to the fact that three-wheeler falls in the category of LMV. The issue raised by him is that there is no endorsement on the Driving Licence authorizing the driver to drive Transport Vehicles of LMV Category.

Learned counsel for the claimants while defending the award relied upon the decisions of the Supreme Court in **Mukund Dewangan Vs. Oriental Insurance Co. Limited, 2016(4) SCC 298.**

The contention raised by learned counsel for the appellant is not well founded. From the perusal of para 32 of the award, it is evident that though the Tribunal has mentioned the Driving Licence to be valid for driving LTV, but in the reasoning it has been mentioned that LMV includes the three-wheeler and no separate endorsement is required.

The law is settled that no separate endorsement is required on the driving licence to drive transport vehicle of same class i.e. LMV. The Supreme Court in **Mukund Dewangan's** case (supra) held as under:-

“46. Section 10 of the Act requires a driver to hold a licence with respect to the class of vehicles and not with respect to the type of vehicles. In one class of vehicles, there may be different kinds of vehicles. If they fall in the same class of vehicles, no separate endorsement is required to drive such vehicles. As light motor vehicle includes transport vehicle also, a holder of light motor vehicle licence can drive all the vehicles of the class including transport vehicles.

It was pre-amended position as well the post-amended position of Form 4 as amended on 28.3.2001. Any other interpretation would be repugnant to the definition of “light motor vehicle” in section 2(21) and the provisions of section 10 (2) (d), Rule 8 of the Rules of 1989, other provisions and also the forms which are in tune with the provisions. Even otherwise the forms never intended to exclude transport vehicles from the category of ‘light motor vehicles’ and for light motor vehicle, the validity period of such licence hold good and apply for the transport vehicle of such class also and the expression in Section 10(2)(e) of the Act ‘Transport Vehicle’ would include medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle, heavy passenger motor vehicle which earlier found place in section 10(2)(e) to (h) and our conclusion is fortified by the syllabus and rules which we have discussed. Thus we answer the questions which are referred to us thus:

(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 roadroller, 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.

(iii) The effect of the amendment made by virtue of Act No.54/1994 w.e.f. 14.11.1994 while substituting clauses (e) to (h) of section 10(2) which contained "medium goods vehicle" in section 10(2)(e), medium passenger motor vehicle in section 10 (2)(f), heavy goods vehicle in section 10(2)(g) and "heavy passenger motor vehicle" in section 10(2)(h) with expression 'transport vehicle' as substituted in section 10(2) (e) related only to the aforesaid substituted classes only. It does not exclude transport vehicle, from the purview of section 10(2)(d) and section 2(41) of the Act i.e. light motor vehicle.

(iv) The effect of amendment of Form 4 by insertion of "transport vehicle" is related only to the categories which were substituted in the year 1994 and the procedure to obtain driving licence

for transport vehicle of class of “light motor vehicle” continues to be the same as it was and has not been changed and there is no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect.”

In view of the decision of the Supreme Court, no interference is called for in the award with regard to liability of the insurer to pay the compensation to the claimants.

Both the appeals are dismissed.

[AVNEESH JHINGAN]
JUDGE

January 15th, 2019
pankaj baweja

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|------------------------------|---|-----------------|
| 1. Whether speaking/reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |