

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

FAO No.1019 of 2013
Decided on:01.05.2019

IFFCO TOKIO General Insurance Company Limited
.....Appellant

versus

Radha Devi Pandey and others
....Respondents

CORAM : HON'BLE MR.JUSTICE DR.RAVI RANJAN

Present: Mr.Ravinder Arora, Advocate with
Mr.Vipul Sharma, Advocate,
for the appellant.

None for respondent no.5.

DR.RAVI RANJAN, J. (Oral)

I have heard learned counsel for the appellant.

In this appeal challenge has been made to the decision dated 19.01.2013 passed by the Motor Accident Claims Tribunal, Gurgaon, in MACT Case No.117 of 2012, by the appellant, the insurer of the offending vehicle.

The Tribunal after considering the materials available on record has held that the victim had died due to the rash and negligent driving of the offending vehicle and total compensation amount has been assessed at Rs.6,72,600/-. Since the vehicle was

insured with the appellant-Insurance Company obviously they would be liable to indemnify the owner of the vehicle by paying the awarded amount to the claimant.

At the time of hearing, sole ground has been raised on behalf of the appellant-Insurance Company that the driver was holding licence to drive a light motor vehicle (LMV) only and not the commercial or transport vehicle whereas the offending vehicle, i.e., Innova car was being used as taxi which definitely comes under the ambit of transport vehicle due to the usage. As such, it is contended that there was violation of the driving licence which would amount to violation of the terms and conditions of the Insurance policy also and, as a consequence thereof, no liability could be fastened upon the appellant-Insurance Company to pay the awarded compensation amount.

However, the issue is no longer *res integra* having been considered and decided by a Three Judges Bench of the Hon'ble Supreme Court in “**Mukand Dewagan vs. Oriental Insurance Company Limited**” AIR 2017 (SCW) 3668. The Apex Court has held that, when the person is holding a licence to drive light motor vehicle (LMV), he would be competent to drive a transport vehicle of that category without endorsement in the licence **permitting** that. Meaning thereby that a driver who is having a licence to drive light motor vehicle (LMV) and is driving transport vehicle of that class only, then he would not require additionally to obtain any

endorsement on his licence by the competent authority to drive such vehicle because such transport vehicles would not stand excluded from the definition of light motor vehicle (LMV) by virtue of amendment Act No.54 of 1994.

Accordingly, the issue having already set at rest by the Hon'ble Supreme Court and as no other ground has been raised at the time of hearing, this appeal is bound to fail.

In the result, the same is dismissed, however, there would be no order as to costs.

May 01, 2019
dharamvir

(DR. RAVI RANJAN)
JUDGE

Whether speaking/reasoned :Yes
Whether Reportable :Yes