

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

1. F.A.O No. 10379 of 2014

Suresh Kumar and anr. ...Appellant

Versus

Usha and anr. ...Respondents

2. F.A.O No. 10390 of 2014

Suresh Kumar and anr. ...Appellant

Versus

Jyoti and anr. ...Respondents

Date of decision:- 12.09.2019

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Sidharth Dahiya, Advocate
for the applicant-appellant.

Ms. Vandana Malhotra, Advocate
for respondent/Insurance Company.

RITU BAHRI J.

The present appeals have been preferred by the owner and driver-appellants (for short 'the appellants') against award dated 31.07.2014 passed by the learned Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal') granting the recovery rights to the Insurance Company against the present appellants in two claim petitions filed by respondent No. 1 in both the appeals.

Brief facts of the case are that on 27.12.2011, respondent No. 1 in both the appeals were going to village Bhairian from Hisar on their scooti bearing registration No. HR-20V/1879, which was being driven by

Jyoti and Usha was pillion rider. When they reached near the Bus stand of village Bhairian, then the offending Tata Venture, bearing temporary registration No. HR-99-KM (Temp) 5222 being driven by Suresh Kumar in rash and negligent manner, came from Siwani side and hit the scooti of respondent No. 1. Due to the impact, they fell down and received serious and grievous injuries. They were shifted to Life Line Hospital, Azad Nagar, Hisar. F.I.R No. 1051 dated 31.12.2011 was registered against respondent No. 1 at P.S. Sadar Hisar.

The Tribunal after going through the evidence led by the parties, awarded the compensation to respondent No. 1 but Insurance Company was given recovery rights against the present appellants on the ground that driver of the vehicle was having license for driving light motor vehicle and not light transport vehicle.

Learned counsel for the appellants at the very outset has referred to judgment of Hon'ble the Supreme Court of India in a case of ***Mukund Dewangan v. Oriental Insurance Co. Ltd, 2017 (4) R.C.R. (Civil) 111*** wherein the question was whether a driver who is having a licence to drive 'light motor vehicle' and is driving 'transport vehicle' of that class is required additionally to obtain an endorsement to drive a transport vehicle? In para 46, it has been observed 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 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.

(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.

Learned counsel for the respondent-Insurance Company is not disputing the fact that the present appeals are covered by Mukund Dewangan's case (supra) but has argued that this matter has been referred to larger Bench in the case of Rambha Devi.

Since there is no stay on the judgment passed in Mukund Dewangan's case (supra), the present appeals deserve to be allowed.

The question is now no more *res integra* in view of the judgment rendered by the Hon'ble Apex Court in **Mukund Dewangan vs Oriental Insurance Company Limited**, AIR 2017 SC 3668, wherein it is held that a transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg would be a light motor vehicle”.

Accordingly, in view of the same, the appeal is allowed and the liability of the amount, to the extent vide which it has been fastened on the appellants shall now be shared jointly and severally and the first liability shall be of the Insurance Company-respondent No.2.

Further it is hereby directed that the amount of Rs.25,000/- each in two appeals deposited by the appellants at the time of filing of appeal, vide drafts No. 998782 and 998783 dated 18.12.2014 in the Registry of this Court be returned to them.

12.09.2019

G Arora

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No