

In the High Court of Punjab and Haryana at Chandigarh

FAO-3182-2016 (O&M)
Date of Decision: February 22, 2019

M/s Pearl Strips Pvt. Ltd.

... Appellant

Versus

Anita and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Alka Sarin, Advocate,
for the appellant.

Mr. Nitin Jain, Advocate,
for respondents no. 1 to 3.

Ms. Sheenu Sura, Advocate,
for respondent no.5.

Avneesh Jhingan, J. (Oral)

The award dated 11.03.2016 passed by the Motor Accident Claims Tribunal, Kurukshetra (for short "Tribunal") has been assailed by the owner of car bearing registration No. CH01-AH-4400 (hereinafter referred to as the "offending vehicle"). The grievance is against the recovery rights granted to the insurer of the offending vehicle.

The facts of the case are not in dispute. A motor vehicular accident took place on 01.01.2015 which proved fatal for Hari Ram.

In the claim petition filed by legal heirs of Hari Ram, the Tribunal held that the accident was caused due to rash and negligent driving of the offending vehicle. The Tribunal awarded a sum of ₹11,57,884/- along with interest @ 9% per annum. The Tribunal held insurer of the offending vehicle liable to pay compensation but was granted recovery

rights to recover the compensation from the owner and driver of the offending vehicle. There is no dispute to the fact that Ex.R1 i.e. driving licence was produced before the Tribunal and the same was found valid upto 20.09.2015. The driving licence authorized the driver to drive TRV Regid Chasi only. The insurer neither produced any record nor any witness to prove that the said licence was not valid. The Tribunal proceeded on presumption that as the licence authorized to drive a transport vehicle, the same was not valid for driving Light Motor Vehicle.

Heard the learned counsel for the parties and perused the paper-book.

The issue involved in the present appeal is whether a driver holding a licence for Heavy Motor Vehicle is authorised to drive Light Motor Vehicle or not?

Before dealing with the issue, it would be relevant to quote Section 7 of the Motor Vehicles Act, 1988 (hereinafter referred to as the "Act"), which reads as under:-

"7. Restrictions on the granting of learner's licences for certain vehicles – (1) No person shall be granted a learner's licence to drive a transport vehicle unless he has held a driving licence to drive a light motor vehicle for at least one year.

Provided that nothing contained in this sub-section shall apply to an e-cart or e-rickshaw.

(2) No person under the age of eighteen years shall be granted a learner's licence to drive a motor cycle without gear except with the consent in writing of the person having the care of the person desiring the learner's licence."

Section 7 of the Act imposes a restriction that a learner's

licence to drive a transport vehicle shall not be issued unless the driver has held a driving licence to drive a light motor vehicle for at least one year. The said section itself ensures that the driver had held a licence to drive Light Motor Vehicle before getting a learner's licence for transport vehicle.

This Court in the case of ***National Insurance Company Limited vs. Parkashi and others, 2017(1) PLR 361***, taking into consideration the earlier decision of this Court in ***Harsewak Singh vs. Lajo Devi, 2013(2) PLR 809*** and considering the decision of Delhi High Court in ***The United India Insurance Co. Ltd. vs. Deepak Goel and others, MAC. APP. No. 750/2006, decided on 24.01.2014*** and decision of Jammu & Kashmir High Court in ***National Insurance Co. Ltd. vs. Gh. Rasool Baba, 2011 (2) J.K.L. 357***, held that possession of a driving licence valid to drive HTV must be seen as sufficient qualification for a person to drive a LMV also, as the mechanism to drive both the categories of vehicles was the same. Thus, the recovery rights granted to the insurer cannot be sustained.

In view of above discussion, the award dated 11.03.2016 is modified to the extent that the driver, owner and insurer of the offending vehicle shall be jointly and severally liable to pay compensation.

Instant appeal is disposed of accordingly.

February 22, 2019
vkd

(Avneesh Jhingan)
Judge

Whether reasoned / speaking : Yes

Whether reportable : Yes