

225

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

\*\*\*\*

**FAO No.3237 of 2016 (O&M)  
Date of Decision: 15.03.2019**

National Insurance Company Ltd.

Appellants

Versus

Kareshan and others

Respondents

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Rajneesh Malhotra, Advocate  
for the appellants.

Mr. Munish Mittal, Advocate  
for respondent No.1.

\*\*\*\*

**AVNEESH JHINGAN, J (Oral):**

The award dated 11.01.2016 passed by the Motor Accident Claims Tribunal, Karnal [for brevity 'the Tribunal'] has been assailed by the insurer of Mahindra Pick Up bearing registration No. HR-99NX-Temp 8883, permanent regd. No. HR-45B-2789 [hereinafter referred to as 'offending vehicle'].

The factum of accident is not in dispute. A motor vehicular accident occurred on 02.07.2013 in which Kareshan suffered grievous injuries. The accident was caused due to the rash and negligent driving of the offending vehicle. FIR No. 500 dated 02.07.2013 was registered at Police Station Sadar, Karnal.

In the claim petition filed under Section 166 of the

Motor Vehicles Act, 1988 [for brevity 'the Act'], the Tribunal awarded ₹45,220/- as compensation. The owner, driver and insurer were held jointly and severally liable to pay the compensation.

The insurer has filed appeal seeking recovery rights on the ground that driver of the offending vehicle was holding Driving Licence of LMV but there was no endorsement for Transport Vehicles and as such he was not authorised to drive the offending vehicle.

The contention raised is not well founded and deserves rejection in view of a decision of the Supreme Court in ***Mukund Dewangan Vs. Oriental Insurance Co. Limited, (2016) 4 SCC 298***, wherein it was 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.*

*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.”*

It is held that no separate endorsement is required to drive transport vehicle of same class.

The driver was holding licence effective for during LMV, it authorised him to drive the offending vehicle as the same is covered under definition of LMV. No separate endorsement is required to drive transport vehicle of LMV class.

In view of law laid down by the Supreme Court, the appeal being without merit, is dismissed.

**[AVNEESH JHINGAN]**  
**JUDGE**

**March 15, 2019**  
*pankaj baweja*

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