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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4006-2016 (O&M)

Date of Decision: September 05, 2019

Sandeep

.....Appellant

Versus

Atam Devi and another

.....Respondents

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Surender Saini, Advocate
for the appellant.

Mr.Vikas Lochab, Advocate
for respondent No.1.

Mr.V.Ramswaroop, Advocate
for respondent No.2.

.....

NIRMALJIT KAUR, J. (ORAL)

CM-13748-CII-2016

For the reasons mentioned in the application, the same is
allowed and delay of 363 days in filing the appeal is condoned.

CM-13747-CII-2016

Application for exemption is allowed, as prayed for.

FAO-4006-2016(O&M)

The appeal is filed against the Award dated 17.04.2015 vide
which the liability was fastened on respondent No.1, i.e. the present
appellant and the same was dismissed qua respondent No.2-Insurance
Company on the ground that the offending vehicle was a light commercial
passenger vehicle and the driver was required to hold a valid driving licence

to ply such a commercial vehicle, which he did not have at the time of the

accident.

Admittedly, the driving licence, Ex.R-3, pertaining to respondent No.1 was produced . The said driving licence was valid for the period when the accident occurred and was also meant for driving light motor vehicle including scooter, motor-cycle, car and jeep. The offending vehicle involved in the present case was 3-wheeler tempo. 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". This Court in the case of Sarwan and another vs Mahabir and another (FAO No.4814 of 2014) decided on 25.07.2019 after discussing the law on the issue too was pleased to hold to the same effect.

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 appellant shall now be shared jointly and severally and the first liability shall be the Insurance Company-respondent No.2.

September 05, 2019
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(NIRMALJIT KAUR)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |