IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 852 of 2015

Date of Decision: September 06 , 2019.

Bajaj Allianz General Insurance Co. Ltd. ...... APPELLANT (s)

Versus

Parmod Kumar and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Akash Sridhar, Advocate for
Mr. Ashwani Talwar, Advocate
for the appellant.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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LISA GILL, J.

This appeal has been filed by the Insurance company challenging its liability to pay compensation to the claimants vide impugned award dated 01.11.2014 passed by the learned Motor Accident Claims Tribunal, Panipat. (hereinafter referred to as, the 'Tribunal').

Sole ground raised in this appeal is that, the driver of the vehicle in question was not authorised to drive the offending vehicle, which is otherwise accepted to be duly insured with the appellant-Insurance company. This is so, for the reason that respondent No.3-driver is stated to be in possession of a license,

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which authorized him to drive a Light Motor Vehicle (LMV) only and not a transport vehicle which the offending vehicle (TATA Magic) is stated to be.

However, learned counsel for the appellant is unable to deny that the controversy sought to be raised, is no longer *res integra*. The Hon'ble Supreme Court in **Mukund Dewangan v. Oriental Insurance Company Limited**, ***2017 (4) RCR (Civil) 111*** has held as under:-

> “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.”

Admittedly, the Driving License (Ex.R2/R6) of respondent No.1 authorized him to drive a Light Motor Vehicle (LMV). As per the Registration Certificate (RC), Ex.R4, gross weight of the vehicle was 1600 Kg. Therefore, it cannot be said that respondent-driver was not holding a valid driving licence or was not authorised to drive the vehicle in question in order to constitute a breach of the Insurance policy, entitling the Insurance company to recover the amount from the owner of the offending vehicle. In view of the facts and circumstances

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of the case, the appellant-insurance company cannot be absolved of its liability to pay compensation to the claimants.

No other argument has been raised.

In this view of the matter, I do not find any ground, whatsoever, to interfere in the impugned award dated 01.11.2014 passed by the learned Motor Accident Claims Tribunal, Panipat at the instance of the appellant.

Consequently, this appeal is dismissed with no order as to cost.

(LISA GILL)
JUDGE

September 06 , 2019.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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