

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 1519 of 2018(O&M)

Date of Decision: October 31 , 2019.

Rahul @ Nitu and another

..... APPELLANT (s)

Versus

Sishan Kumar and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Rajesh Malik, Advocate
for the appellants.

Mr. J.S.Saneta, Advocate
for respondent No.1/claimant.

Mr. Lalit Garg, Advocate
for respondent No.2-Insurance company.

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?

LISA GILL, J.

This appeal has been filed by the driver and owner of the offending vehicle challenging impugned award dated 23.08.2017 passed by the learned Motor Accident Claims Tribunal, Sonapat. (hereinafter referred to as, the 'Tribunal').

The appellants are aggrieved of the liability imposed upon them by the learned Tribunal on the ground that there is no endorsement on the Driving

License held by appellant No.1, authorising him to drive commercial/transport vehicle. There is no challenge as to the quantum of the compensation awarded to respondent No.1/claimant.

Learned counsel for respondent No.3-Insurance company does not deny that the offending vehicle in this case was a Mahindra Pick-up. The said vehicle was duly insured with the Insurance company. Learned counsel for respondent-Insurance company is unable to deny that the controversy raised in this case is no longer *res integra*. The Hon'ble Supreme Court in **Mukund Dewangan v. Oriental Insurance Company Limited, 2017 (4) RCR (Civil)**

III 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.”

As per the Driving License (Ex.R1) held by respondent No.1, he was authorized to drive a Light Motor Vehicle (LMV), Tractor and motorcycle.

Admittedly, the gross unladen weight of the offending vehicle, as per the

Registration Certificate, is 1470 Kg. Therefore, it is evident that the appellant had a valid driving license at the time of the accident and the Insurance company cannot be absolved of its liability in this case.

In this view of the matter, learned Tribunal has erred in holding that the appellant No.1 is not authorised to drive the offending vehicle in question. Finding of the learned Tribunal in this respect is set aside. It is consequently held that respondent No.3-Insurance company is liable to indemnify the insured and pay the awarded compensation.

Appeal is, accordingly, allowed.

October 31 , 2019.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No