

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

**FAO No.1721 of 2018(O&M)
Date of Decision: 23.01.2019**

**Magma HDI General Insurance Co. Ltd.Appellant
Versus
Pinki and othersRespondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Pankaj Mehta, Advocate
for the appellant.

RAJ MOHAN SINGH, J.(Oral)

[1]. Learned counsel for the appellant has two-fold submissions. Firstly that driver of the offending vehicle namely Rajbir was having learner licence which was exhibited on record as Ex.P20.

[2]. Perusal of the record would show that driver was authorized to drive motorcycle with gear, light motor vehicle non-transport, light motor vehicle tractor N/T and the same was valid from 26.08.2015 to 25.02.2016. The accident took place on 20.01.2016 i.e. the date during period of validity. Parveen Kumar, Clerk, SDM Office, Jind has been examined with reference to original record of the driving licence No.HR-3120160094868 dated 25.01.2016 Ex.P22 which was issued in

the name of Rajbir son of Mahabir on 25.01.2016 for the first time and the same is valid upto 24.01.2036. As per learner licence, the driver was duly authorized to drive vehicle as per the testimony of aforesaid witness. The condition mentioned for driving the vehicle in learner licence is not written in Ex.P20 i.e. learner licence which was issued on 26.08.2015 and was valid upto 25.02.2016.

[3]. District Inspector Police conducted a test of the candidates for driving the vehicle and while issuing licence in question, all the formalities were duly complied with. District Inspector (Traffic) had taken the test of Rajbir for driving the motor vehicle and as per his report, name of the driver was duly recommended for issuance of regular driving licence and resultantly, regular driving licence was issued on 25.01.2016. Name of his father was duly corrected as Mahabir at a subsequent stage.

[4]. In view of above, first submission made by learned counsel for the appellant is found to be wholly baseless. The second submission made by learned counsel for the appellant is that vehicle in question was being used for commercial purpose. The driver of the vehicle was using the same for carrying animal fodder which was gifted by agriculturist for the purpose of supplying the same to Gaushala. No evidence was led by the

appellant to prove that the driver was using the tractor for any commercial purpose and the same was hired by someone after paying the fare to the driver.

[5]. In the absence of any such material on record, in my considered opinion, Motor Accident Claims Tribunal has fastened the liability on the Insurance Company on correct parameters.

[6]. In view of above, there is no error of jurisdiction in the impugned award dated 28.11.2017 passed by the Motor Accident Claims Tribunal, Jind. Since the appeal has been decided on merit, therefore, there is no necessity to pass any order in the application under Section 5 of the Limitation Act. All other remaining applications are disposed of accordingly.

23.01.2019
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No