

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

1. **FAO No. 1796 of 2018 (O&M)**
Date of decision : January 14, 2019

Hardev Singh and anotherAppellants

Versus
New India Assurance Company Limited and othersRespondents

2. **FAO No. 1797 of 2018 (O&M)**

Hardev Singh and anotherAppellants

Versus
New India Assurance Company Limited and othersRespondents

3. **FAO No. 1798 of 2018 (O&M)**

Hardev Singh and anotherAppellants

Versus
New India Assurance Company Limited and othersRespondents

4. **FAO No. 1799 of 2018 (O&M)**

Hardev Singh and anotherAppellants

Versus
New India Assurance Company Limited and othersRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. H.S. Mann, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for the respondent - insurance company.

LISA GILL, J.

This order shall decide FAO Nos. 1796, 1797, 1798 and 1799
of 2018.

All the four appeals have been preferred by the driver of the
offending vehicle challenging the recovery rights afforded to the insurance

company by the learned Motor Accident Claims Tribunal, Sangrur (for short - 'the Tribunal') vide award dated 05.03.2018.

The appellant is the driver of bus bearing registration No. PB-13X-9421, which was held to be involved in the accident which took place on 10.06.2017. Four claim petitions were filed at Sangrur under Section 166 of the Motor Vehicles Act (for short – 'the Act') seeking compensation on account of death of the persons involved in a motor vehicle accident caused due to driving of the offending vehicle bus bearing registration No. PB-13X-9421.

Learned Tribunal on considering the facts and circumstances of the case concluded that the claimants were entitled to receive compensation on account of death of the person concerned in each of the claim petitions. Compensation, as detailed in the impugned award, was awarded to all the claimants. Learned Tribunal, however, observed that there was no separate endorsement in the driving licence (Ex.R2) of the driver that he was competent to drive a public service vehicle i.e. bus. Therefore, insurance company was afforded right to recover the compensation in question from the present appellant after satisfying the claim.

Aggrieved therefrom, present appeals have been filed by the appellant.

It is relevant to note that there is no challenge to the quantum of compensation in these appeals. The appellant – driver has impugned the right afforded to the insurance company to recover the compensation amount from him.

Learned counsel for the appellant argues that recovery from the appellant as directed by the learned Tribunal is not warranted by the

provisions of Act. The appellant was entitled to drive a transport vehicle, besides Light Motor Vehicle (non-transport), medium and heavy motor vehicle. It is, thus, prayed that these appeals be allowed.

Heard, learned counsel for the parties.

Learned counsel for the insurance company is unable to deny that as per the driving licence (Ex.R2), respondent No. 1 was authorised to drive a transport vehicle besides Light Motor Vehicle (non-transport), Medium and Heavy Motor Vehicle. As per Section 2 Sub Section 47 of the Act, the driver was definitely entitled to drive the vehicle in question i.e. a bus. Section 2 Sub Section 47 of the Act reads as under:-

“(47) “transport vehicle” means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle;”

It is indeed the insurance company which is liable to satisfy the claim. There is no justification for affording the right to recover the amount of compensation from the appellant, to the insurance company. There is no dispute that the vehicle in question was validly insured with the insurance company. Accordingly, finding of the learned Tribunal in this regard is set aside. It is held that the insurance company is not entitled to recover the amount of compensation from the appellant.

No other argument has been raised.

All the four appeals are, consequently, allowed.

January 14, 2019
rts

(Lisa Gill)
Judge

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