IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 3714 of 2016
Date of Decision: 17.09.2019

National Insurance Company Limited and another
...Petitioners

Vs.

Nipun Ahuja and another
...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. G.S. Ahluwalia, Advocate
for the petitioners.

None for the respondents.

RAJIV NARAIN RAINA, J. *(Oral)*

1. There is no representation on behalf of the respondents. This matter has been pending since 2016 and effective appearance has not been put in by the respondents despite taking time to file reply on 22.02.2017. No reply has been filed by the respondent. Accordingly, respondent No.1 is proceeded against ex-parte. Right to file written statement is forfeited and his defence is struck off. Applying the principle of non-traverse and having regard to the fact that the issue is covered by the decision of the Supreme Court in Civil Appeal No. 1102 of 2009 arising out of SLP (C) No.16700 of 2008, Oriental Insurance Co. Ltd. Vs. Angad Kol and others decided on 18.02.2009 the case is decided. In this case the Supreme Court held that light transport motor vehicle would fall within the category of transport vehicle because light goods carrier is not defined anywhere in the Motor Vehicles Act, 1988

but the driving licence must bear an endorsement of transport vehicle along with LMV licence, and since the driver in the present case was holding only an LMV licence on the date of accident without any endorsement of transport vehicle thereon and the offending vehicle was actually a transport vehicle, the Insurance Company is not liable to pay compensation.

2. The Permanent Lok Adalat, Public Utility Services, Sirsa fell in error in relying on the decision rendered by the Supreme Court in National Insurance Company Limited Vs. Sri Annappa Irappa Nesaria and others, 2008 (1) RCR (Civil) 848 in which the Court held that if the driver possesses light motor vehicle licence (LMV) he is authorized to drive a light goods carriage vehicle as well. In the light of the decision in Oriental Insurance Co. Ltd (supra), the legal position has been clarified on the point of endorsement only on such an endorsement by the authorities would the argument hold in favour of the driver of the vehicle, which is not the case.

3. For the above reason, the writ petition is allowed, the stay order is made absolute and the impugned order dated 20.11.2015 is quashed.

(RAJIV NARAIN RAINA)
JUDGE

17.09.2019
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Whether speaking/reasoned: Yes
Whether reportable : Yes/No