IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

220 FAO No.3471 of 2016 (O&M)

Date of decision: 11.04.2019

NATIONAL INSURANCE CO. LTD. ... Appellant

Versus

JAGDISH KUMAR AND ORS. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Rajesh Verma, Advocate for the appellant.
Mr. Liaquat Ali, Advocate for respondents No.1 and 2.

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REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 09.11.2015 passed by the Motor Accidents Claims Tribunal, Ludhiana whereby compensation has been assessed on account of injuries sustained by Prince in a motor vehicular accident that took place on 12.10.2013.

Counsel for the insurance company would inform that appeal has been preferred only on the question of driving licence possessed by Jagdish Kumar, driver of Mahindra Pickup bearing No.PB-10-BU-9751.

Counsel for the appellant would argue that the driver possessed a licence to drive light motor vehicle, therefore, he did not have effective licence to drive the vehicle in question and as such, the insurance company may either be exonerated of liability to pay compensation or conferred with right of recovery against the insured after payment of compensation to the claimant.

Counsel representing respondents No.1 and 2, on the contrary, would argue that controversy raised in the present appeal is squarely covered against the insurance company, in the light of judgment of Hon'ble the Supreme Court **Mukund Dewangan vs. Oriental Insurance Company**

Limited 2017(7) Scale 731.

Counsel for the insurance company, in response to a query, has not disputed that gross vehicle weight of Mahindra Pickup (offending vehicle) is less than 7500 kgs., thus, the same falls within the definition of light motor vehicle under Section 2(21) of the Motor Vehicles Act, 1988. As driver possessed a licence authorising him to drive a light motor vehicle, it is difficult to accept contention of the insurance company that either the insured had breached the terms and conditions of insurance policy or the insurance company can press for right of recovery against the insured after payment of compensation to the claimants.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs. As the appeal has been decided on merits, application for condonation of delay is of academic relevance.

11.04.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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