

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

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FAO No.6986 of 2015 (O&M)

Date of decision: 03.04.2019

Gulab Singh

... Appellant

Versus

Paramjeet Kaur and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Gaurav Sharma, Advocate for the appellant.
Mr. Ashwani Talwar, Advocate and
Ms. Priya Deep, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.21802-CII of 2015

Heard.

Allowed as prayed for. Delay of 197 days in filing the appeal
stands condoned.

Main Case

The driver cum owner of offending vehicle is in appeal to express his grievance against findings of the Tribunal on issue No.2, reads thus:-

Whether respondent No.1 was not holding valid and effective driving licence at the time of alleged accident?OPR

It is argued that the driver possessed licence to drive a light motor vehicle and the same contained an endorsement authorising him to drive a commercial vehicle, therefore, he had a valid and effective driving licence to drive Qualis ambulance that falls within the definition of light motor vehicle under Section 2(21) of the Motor Vehicles Act, 1988 (in short 'the Act'). In addition, it is argued that an application has been filed under Order 41 Rule 27 for leading additional evidence to produce on record copy of driving licence No.17329 valid from 18.12.2008 to 17.12.2011 and the insurance company was directed to seek necessary verification of the said licence vide order dated 08.12.2016 passed by this Court. It is argued that findings of the Tribunal on issue No.2 are not based upon correct appreciation of the factual and legal aspects of the case, therefore, recovery

right given in favour of the insurance company is liable to be set aside.

Counsel for the insurance company has not disputed that the vehicle driven by the appellant falls within the definition of light motor vehicle under Section 2(21) of the Act and the driver possessed licence to drive a light motor vehicle.

As the driver cum owner of offending vehicle was possessing a licence to drive a light motor vehicle and the vehicle in question falls within the definition of light motor vehicle under Section 2(21) of the Act, the controversy raised in the present appeal is squarely covered in favour of the appellant in view of judgment of Hon'ble the Supreme Court **Mukund Dewangan vs. Oriental Insurance Company Limited 2017(7) Scale 731**. As such, findings of the Tribunal on issue No.2 and consequently giving right of recovery in favour of the insurance company cannot be allowed to sustain and accordingly set aside.

No other issue has been raised.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms. As a natural corollary, the insurance company shall be jointly and severally liable to pay compensation without any right of recovery.

03.04.2019

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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No