

116 **RA-CR-138-2020 & CM-9701-CII-2020 in/and
FAO-2875-2020**

**Varinder Kumar Shah and another
Vs.
New India Assurance Co. Ltd. and others
(Through video conferencing)**

Present:- Ms. Bhavna Kapur, Advocate,
 for the applicant-appellant.

CM-9701-CII-2020

Application is allowed, as prayed for.

RA-CR-138-2020

Present application has been filed for review of the order dated
22.9.2020 by which the FAO-2875-2020 was dismissed.

Learned counsel for the applicant-appellant argues that the
grievance of the applicant-appellant with regard to the findings in respect of
Issue No.4 whether he was holding a valid licence or not, needs to be
adjudicated by this Court.

On being pointed out that the order, review of which has been
sought, was passed in the presence of the learned counsel for applicant-
appellant and no such argument was raised at the said time, learned counsel
for the applicant-appellant submits that though, the said point was raised in
the appeal and was also brought to the notice of the Court, but due to the
virtual hearing, the same could not be pressed vigorously.

Keeping in view the facts recorded above, though, this Court is
satisfied that the argument, which is being raised now, was not pressed at
the time when FAO was decided on 22.09.2020, but still in the interest of
justice, the order dated 22.09.2020 is recalled.

FAO-2875-2020

Learned counsel appearing on behalf of the appellants submits that the findings, which have been recorded in respect of Issue No.4, are contrary to the actual facts for the reason that once the licence of the appellant has the validity to drive the transport vehicle, the same will include all kinds of transport vehicles including the heavy motor vehicle and there is no requirement of endorsement for heavy motor vehicle on the licence as the endorsement of the same is not being done by the Licencing Authority after the amendment in the Rules.

To support to the said argument, learned counsel for the appellants relies upon the judgment of this Court passed in **FAO-3462 of 2013** titled as '**United India Insurance Company Limited** Vs. **Kanta Ram and others**, decided on 21.12.2017.

Notice of motion for 10.02.2021

In the meantime, execution proceedings initiated by respondent No.1 against the appellants shall remain stayed.

November 17, 2020
naresh.k

(**HARSIMRAN SINGH SETHI**)
JUDGE