

**FAO- 7779 of 2016 (O&M)**  
**Date of Decision: 6.3.2020**

**Dharampal**

**---Appellant**

**versus**

**Balwinder Kaur and others**

**---Respondents**

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

Present: Mr. Yogesh Saini, Advocate  
for the appellant

Mr. Gopal Mittal, Advocate,  
for the insurance company

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**Rekha Mittal, J.**

Challenge in the present appeal has been directed against award dated 23.8.2016 passed by the Motor Accidents Claims Tribunal, Chandigarh (in short “the Tribunal”) to the limited extent that insurance company has been given right of recovery against the driver and owner of offending vehicle on the question of driving licence.

Counsel for the appellant would argue that as Satish Kumar, driver of vehicle No. CHW-7549 had a licence to drive the light motor vehicle, he was duly authorized to drive the aforesaid vehicle, in view of its unladen and laden weight recorded in the registration certificate.

Perusal of the registration certificate marked as Ex. R5 makes it evident that unladen weight of the offending vehicle was 2685 kgs. As the offending vehicle falls within the definition of 'light motor vehicle' under Section 2(21) of the Motor Vehicles Act, 1988, the driver was duly licensed to drive the offending vehicle. In this context, reference can be made to

judgment of Hon'ble the Supreme Court **Mukund Dewangan vs. Oriental Insurance Company Limited and others 2017(17) Scale 731.** In this view of the matter, findings of the Tribunal on the question of driving licence and giving right of recovery in favour of the insurance company can not be allowed to sustain and accordingly set aside.

For the foregoing reasons, appeal is partly allowed in the aforesaid terms. Statutory amount of Rs. 25,000/- be remitted to the Tribunal for payment to the claimants.

**(Rekha Mittal)**  
**Judge**

**6.3.2020**

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No