

FAO No. 1745-2018 (O&M) and
FAO No. 1767 of 2018

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1745 of 2018
Date of Decision: 11.02.2020

Manoj Kumar

....Appellant

vs.

United India Insurance Com. Ltd. and others

.....Respondents

FAO No. 1767-2018 (O&M)

Manoj Kumar

.....Appellant

Vs.

United India Insurance Com. Ltd. and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Gourav Jain, Advocate,
for the appellant.

Mr. Amit Kundra, Advocate,
for respondent no. 1-insurance company.

AMOL RATTAN SINGH, J. (ORAL)

The only issue in these two appeals is as to whether the recovery rights of the compensation awarded by the Tribunal to the respondent-insurance company have been correctly awarded or not, the Tribunal having held in the impugned Award that since the licence possessed by respondent no. 3 herein, i.e. the driver of the tractor owned by the appellant, was only one allowing him to drive a tractor, with him not licensed to drive a transport vehicle, and though a

tractor is by itself not a transport vehicle but it becomes one the moment a trailer is attached to it, the said licence cannot be held to be a valid licence, as at the time of the accident in question, on 08.01.2016, the tractor driven by respondent no. 3 was pulling a trailer/trolley with it.

To hold as above, the Tribunal relied upon a judgment of a co-ordinate Bench of this court in United India Insurance company Ltd. vs. Kashish Midha and others 2017 (3) PLR 685.

However, learned counsel for the appellant submits that the said judgment cannot be stated to be laying down the ratio correctly on that issue, in view of the judgments of the Supreme Court in Mukund Dewangan vs. Oriental Insurance Company Ltd. 2017 (4) RCR (Civil) 111 and Sant Lal vs. Rajesh and others 2017 (3) RCR (Civil) 757, in the latter of which, it has been held as follows:-

“4. We have answered the question that driver having licence to drive light motor vehicle can drive such a transport vehicle of LMV class and there is no necessity to obtain separate endorsement, since tractor attached with the trolley was transport vehicle of the category of light motor vehicle. Hence, there was no breach of the conditions of the policy.”

Similarly, in Mukund Dewangans' case (*supra*), it has been held that there is no requirement to obtain a separate endorsement to drive a transport vehicle, if the driver of the vehicle is holding a license to drive a Light Motor Vehicle.

The contention therefore is that the tractor simply by addition of the trailer did not become a Heavy Motor Vehicle and consequently, respondent no. 3 having been found by the Tribunal itself to be carrying a valid licence to drive the

tractor, the absolvment by the Tribunal of the insurance company to pay the compensation, was wholly uncalled for.

He further submits that in fact as regards the trailer, even separate premium had been paid by the appellant and therefore, the insurance company cannot absolve itself of liability to pay the compensation awarded, on that count either.

Learned counsel for the insurance company could not deny the ratio of the judgments of the Supreme Court cited by learned counsel for the appellant and on specific query put to him as regards the premium paid to cover the insurance in respect of the trailer pulled by the tractor owned by the appellant, he does not deny that such premium was paid.

That being so, these appeals are allowed, with the impugned Award passed by the Motor Accidents Claims Tribunal, Patiala, set aside to the extent that it absolves the respondent-United India Insurance Company Ltd. of its liability to pay the compensation awarded to the claimants (respondent no. 2 in these appeals).

Consequently, the respondents in the claim petition would all be jointly and severally liable to pay the compensation, with naturally the insurance company as had insured the vehicle in question, to indemnify the owner thereof.

February 11, 2020
nitin

Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)
JUDGE

Yes
No.