

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

204

FAO-173-1993 (O&M)
Date of decision: 29.01.2024

Oriental Insurance Company Ltd.Appellant

Versus

Saroj Devi and others Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Shrenik Jain, Advocate
for the appellant-insurance company.

Mr. Hitesh Kumar Sammi, Advocate for
Mr. Nand Lal Sammi, Advocate for respondent No.7.

AMAN CHAUDHARY, J.

1. Challenge in the appeal, filed by the Insurance Company is to the award dated 16.09.1992 passed by the Motor Accident Claims Tribunal, Kaithal (for short 'the Tribunal') vide which Insurance Company was held liable to pay compensation to the claimants.
2. This is a reconstructed case, as the original file was burnt in the fire that broke out in the concerned branch in the year 2011. Since the case is pending for more than 34 years, the counsel for the parties have no objection, if the same is decided on the basis of the available record.
3. Learned counsel for the appellant contends that the Tribunal had committed an error to hold the Insurance Company liable to make the payment of the compensation awarded, despite the fact that the vehicle was being driven in violation of insurance policy as the driver of the Matador was not holding a valid driving licence.
4. On the other hand, learned counsel for respondent No.7 has

opposed the present appeal and states that the Tribunal has rightly held liable to the insurance company to pay the compensation as the driver was holding the valid driving licence. Thus, he prays for the dismissal of the present appeal.

5. Having heard the learned counsel on either side and file perused, this Court is unable to countenance the submissions canvassed on behalf of the appellant-Insurance company, whereas those of respondent No.7 are found to have merit.

6. The Tribunal on the basis of evidence led, has noticed that the four wheeler involved in the accident is known to be light vehicle used for commercial purpose. The driver was holding a LMV licence, Ex.R1. In this regard, a gainful reference can be made to **Mukund Dewangan vs. Oriental Insurance Co. Ltd.**, (2017) 14 SCC 663, wherein Hon'ble the Supreme Court has held thus:-

“(i) ‘Light motor vehicle’ as defined in section 2(21) of the Act would include a transport vehicle as per the weight prescribed in section 2(21) read with section 2(15) and 2(48). Such transport vehicles are not excluded from the definition of the light motor vehicle by virtue of Amendment Act No.54/1994.

(ii) A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg. would be a light motor vehicle and also motor car or tractor or a road roller, ‘unladen weight’ of which does not exceed 7500 kg. and holder of a driving licence to drive class of “light motor vehicle” as provided in section 10(2)(d) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg. or a motor car or tractor or road-roller, the “unladen weight” of which does not exceed 7500 kg. That is to say, no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class as enumerated above. A licence issued under section 10(2)(d) continues to be valid after Amendment Act 54/1994 and 28.3.2001 in the form.

(iii) The effect of the amendment made by virtue of Act No.54/1994 w.e.f. 14.11.1994 while substituting clauses (e) to (h) of section 10(2) which contained “medium goods vehicle” in section 10(2)(e), medium passenger motor vehicle in section 10(2)(f), heavy goods vehicle in section 10(2)(g) and “heavy passenger motor vehicle” in section 10(2)(h) with expression ‘transport vehicle’ as substituted in section 10(2)(e) related only to the aforesaid substituted classes only. It does not exclude

transport vehicle, from the purview of section 10(2)(d) and section 2(41) of the Act i.e. light motor vehicle.
(iv) The effect of amendment of Form 4 by insertion of “transport vehicle” is related only to the categories which were substituted in the year 1994 and the procedure to obtain driving licence for transport vehicle of class of “light motor vehicle” continues to be the same as it was and has not been changed and there is no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect.”

7. In view of the above, the present appeal sans merit is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

29.01.2024
ashok

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