

FAO-2465-2007 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-2465-2007 (O&M)
Date of Decision : 20.04.2024

The Oriental Insurance Co. Ltd.

....Appellant

VERSUS

Gurdial Kaur and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Varun Sharma, Advocate for appellant – Insurance Co.

Mr. Ashwani Arora, Advocate for the claimants-respondents.

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SUDEEPTI SHARMA, J. (Oral)

1. The insurance company has filed the present appeal for recovery rights.
2. The brief facts of the case as mentioned in the claim petition are that on 11.06.2001, at about 5.30 pm Bachna Ram was walking in front of the gate of CMC Hospital, Sector 17, Chandigarh when a three wheeler bearing registration No.HR-37-8093 came at a fast speed and struck against him and against the door of the above said Hospital. Due to the impact, Bachna Ram fell down on the road and received serious injuries. He was taken to PGI, Chandigarh immediately where he died on 13.06.2001. The accident took place due to rash and negligent driving of the three-wheeler by Ram Kumar (respondent No.1). It was the contention of the claimants that the deceased was about 51 years of age at the time of accident and was employed as Meter Reader in Municipal Corporation, Public

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Health Department, Sector 9 Chandigarh and his monthly income was Rs.10,000/- per month. Claimant No.1 is the widow and claimant Nos. 2 to 7 are the children of the deceased.

3. Upon notice, respondents appeared and denied the factum of claim.

4. From the pleading of the parties, the Tribunal framed the following issues:-

1. Whether deceased Bachan Ram died in Motor Vehicle accident caused by respondent No.1 by driving three wheeler No.HR-37-8093 in a rash and negligent manner? OPP

2. If issue No.1 is proved, whether the claimants are entitled to compensation being the legal representatives of late Bachan Ram? OPP

3. Whether respondent No.1 was not holding a valid driving licence at the time of accident? OPR-3

4. Relief.

5. Learned counsel for the appellant contends that since the insured vehicle in question was three-wheeler, the same is falling under the category of commercial vehicle, and upon the driving licence of the driver of insured vehicle, there was no transport endorsement, which is required under the Act, therefore, recovery rights are to be recovered from the driver and owner of the insured vehicle in question.

6. Learned counsel for the claimants-respondents argues on the lines of the award.

7. I have heard learned counsel for the parties and thoroughly gone through the record.

8. The law qua transport endorsement is no more res integra, in view of the judgment of Hon'ble Supreme Court in the case of **Mukund Dewangan Vs. Oriental Insurance Company Ltd** 2017(4) R.C.R (Civil) 111. Relevant para of the same is reproduced hereunder:-

“46. [Section 10](#) of the Act requires a driver to hold a licence with respect to the class of vehicles and not with respect to the type of vehicles. In one class of vehicles, there may be different kinds of vehicles. If they fall in the same class of vehicles, no separate endorsement is required to drive such vehicles. As light motor vehicle includes transport vehicle also, a holder of light motor vehicle licence can drive all the vehicles of the class including transport vehicles. It was pre-amended position as well the post-amended position of Form 4 as amended on 28.3.2001. Any other interpretation would be repugnant to the definition of “light motor vehicle” in [section 2\(21\)](#) and the provisions of [section 10\(2\)\(d\)](#), Rule 8 of the Rules of 1989, other provisions and also the forms which are in tune with the provisions. Even otherwise the forms never intended to exclude transport vehicles from the category of ‘light motor vehicles’ and for light motor vehicle, the validity period of such licence hold good and apply for the transport vehicle of such class also and the expression in Section 10(2)(e) of the Act ‘Transport Vehicle’ would include medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle, heavy passenger motor vehicle which earlier found place in section 10(2)(e) to (h) and our conclusion is fortified by the syllabus and rules which we have

discussed. Thus we answer the questions which are referred to us 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.**”

9. In view of the law laid down by the Hon’ble Supreme Court in **Mukund Dewangan’s** case (supra), the present appeal is dismissed.

10. Pending applications, if any, also stand disposed of.

April 20, 2024
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(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No