

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****303****FAO-1448-2019 (O&M)****Date of Decision : 16.12.2024**

IFFCO TOKIO General Insurance Co Ltd.

....Appellant

VERSUS

Pargat Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. P.K.S. Phoolka, Advocate for respondent No.1.

Mr. Ishan Thakur, Advocate for
Mr. L.S. Sidhu, Advocate for respondent Nos.2 and 3.**ALKA SARIN, J. (Oral)**

1. Present appeal has been preferred by the Insurance Company aggrieved by the award dated 06.09.2018 passed by the Motor Accident Claims Tribunal, Mansa (hereinafter referred to as the 'Tribunal') whereby the liability has been fastened on the Insurance Company and no rights for recovery have been given against the driver and owner of the offending vehicle i.e. respondent Nos.2 and 3 herein.

2. The only argument raised by learned counsel for the appellant is that the Registration Certificate of the offending vehicle reveals that the unladen weight of the truck was 10,000 kgs. and the driving licence, which was produced on record as Ex.D2, pertained to Light Motor Vehicles (Transport). Learned counsel for the appellant would further contend that RW-1 Kulwinder Singh, Clerk from the office of Registering and Licensing

Authority, Mansa has stepped into the witness-box and stated that driver – Sukhdev Singh – was holding a licence for LMV, LMV (GV), LMV (CAB) upto 27.04.2017 and the same was valid for non-transport vehicle upto 27.04.2019 and the driving licence was not valid for heavy motor vehicles. It is further the contention that despite the evidence being on the record, the Tribunal decided issue Nos.3, 4 and 5 against the Insurance Company on the ground of no evidence having been led by them. Learned counsel for the appellant has further pointed out that no evidence was led to the contrary by the driver and owner of the offending vehicle.

3. *Per contra* learned counsel for respondent Nos.2 and 3 i.e. driver and owner of the offending vehicle is not in a position to dispute the fact that the licence held by the driver of the offending vehicle pertained to LMV and not for a Heavy Transport Vehicle. Learned counsel for respondent Nos.2 and 3 is also not in a position to dispute the fact that the Registration Certificate of the offending vehicle reveals that the unladen weight of the offending vehicle was 10,000 kg.

4. Heard.

5. Respondent No.1 would be a non-contesting respondent in the present case as no relief has been claimed against him.

6. The argument of learned counsel for the appellant that the driving licence held by the driver of the offending vehicle was for driving a light motor vehicle and not for a heavy transport vehicle deserves to be accepted. A perusal of the driving licence (Ex.D2) would clearly reveal that the licence held by respondent No.2 - driver - pertained to a Light Motor

Vehicle (Transport) and was not applicable for driving a Heavy Transport Vehicle with unladen weight of 10,000 kgs. Kulwinder Singh, Clerk from the office of Registering and Licensing Authority, Mansa while appearing as RW-1 has categorically stated that the driving licence pertained to Light Motor Vehicles and was not meant for driving a Heavy Transport Vehicle. Learned counsel for respondent Nos.2 and 3 has not been able to dispute the said fact nor has been able to point out to any other evidence on the record to even remotely suggest that the driving licence was for a Heavy Transport Vehicle.

7. In view of the above, the compensation awarded by the Tribunal is affirmed. However, the amount of compensation shall be paid by the insurer i.e. appellant herein at the first instance with liberty to recover the same from respondent Nos.2 and 3 i.e. driver and owner of the offending vehicle. Statutory amount, if not remitted earlier to the Tribunal, be remitted accordingly.

8. Present appeal stands disposed off in the above terms. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

16.12.2024
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO