



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

(126)

FAO-5872-2024 (O&M)
Date of Decision:-18.12.2024

THE NEW INDIA ASSURANCE CO LTD

... Appellant

Versus

BARU RAM AND ORS

... Respondents

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CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present:- Mr. Surinder Singh Sidhu, Advocate
for the appellant.

ALOK JAIN, J. (Oral)

1. The present appeal has been filed *inter alia* raising challenge to the Award dated 11.10.2024 passed by the learned Motor Accident Claims Tribunal, Bhiwani (hereinafter to be referred as 'Tribunal') only to the extent that the recovery rights have not been given to the Insurance Company.
2. Learned counsel for the appellant submits that the learned Tribunal fell in error in not determining the finding that as per Provisions of Section 66 of Motor Vehicles Act, 1988, the offending vehicle was supposed to have a permit before plying upon the roads for commercial purposes and said onus was on the owner of the vehicle to prove otherwise. He further stated that the permit was granted on 19.09.2017, whereas date of accident is 08.09.2017 and therefore, relies upon the judgments of the Hon'ble Apex Court titled as **National Insurance Co. Ltd. vs. Chella Bharathamma,**



2004(8) SCC 517 and Amrit Paul Singh & Anr. vs. Tata AIG General Insurance Co. Ltd. & Ors. 2018(3) RCR (Civil) 131, to substantiate his arguments.

3. Heard learned counsel for the appellant at length and there is no denial to the said preposition of law and the provisions of Section 66 of the Motor Vehicles Act, 1988, which read as under:-

66. Necessity for permits. -

- (1) No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used:
Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a contract carriage: Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a goods carriage either when carrying passengers or not: Provided also that a goods carriage permit shall, subject to any conditions that may be specified in the permit, authorise the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by him. [Provided also that where a transport vehicle has been issued any permit or permits, as well as a licence under this Act, such vehicle may be used either under the permit, or permits, so issued to it, or under such licence, at the discretion of the vehicle owner.]
- (2) The holder of a goods carriage permit may use the vehicle, for drawing of any trailer or semi-trailer not owned by him, subject to such conditions as may be prescribed: [Provided that the holder of a permit of any articulated vehicle may use the prime-mover of that articulated vehicle for any other semi-trailer.]
- (3) The provisions of sub-section (1) shall not apply
- (a) to any transport vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise;
 - (b) to any transport vehicle owned by a local authority or by a person acting under contract with a local authority and used solely for road cleansing, road watering or conservancy purposes;
 - (c) to any transport vehicle used solely for police, fire brigade or ambulance purposes;
 - (d) to any transport vehicle used solely for the conveyance of corpses and the mourners accompanying the corpses;



- (e) to any transport vehicle used for towing a disabled vehicle or for removing goods from a disabled vehicle to a place of safety;
 - (f) to any transport vehicle used for any other public purpose as may be prescribed by the State Government in this behalf;
 - (g) to any transport vehicle used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;[* * *]
 - (i) to any goods vehicle, the gross vehicle weight of which does not exceed 3,000 kilograms;
 - (j) subject to such conditions as the Central Government may, by notification in the Official Gazette, specify, to any transport vehicle purchased in one State and proceeding to a place, situated in that State or in any other State, without carrying any passenger or goods;
 - (k) to any transport vehicle which has been temporarily registered under section 43 while proceeding empty to any place for the purpose of registration of the vehicle;[* * *]
 - (m) to any transport vehicle which, owing to flood, earthquake or any other natural calamity, obstruction on road, or unforeseen circumstances, is required to be diverted through any other route, whether within or outside the State, with a view to enabling it to reach its destination;
 - (n) to any transport vehicle used for such purposes as the Central or State Government may, by order, specify;
 - (o) to any transport vehicle which is subject to a hire-purchase, lease or hypothecation agreement and which owing to the default of the owner has been taken possession of by or on behalf of, the person with whom the owner has entered into such agreement, to enable such motor vehicle to reach its destination; or
 - (p) to any transport vehicle while proceeding empty to any place for purpose of repair.[(q) to any transport vehicle having been issued a licence under a scheme, under sub-section (3) of section 67 or sub-section (1) of section 88A, or plying under such orders as may be issued by the Central Government or by the State Government.]
- (4) Subject to the provisions of sub-section (3), sub-section (1) shall, if the State Government by rule made under section 96 so prescribes, apply to any motor vehicle adapted to carry more than nine persons excluding the driver.

4. However, in the present case, it is admitted position that the present appellant did not raise the defence that the offending vehicle was on a commercial trip or loaded with goods and hence the permit was a



prerequisite condition for its plying. It is submitted that although in the written statement, stand was taken that the truck was being plied on the roads for commercial purpose without the permit but no evidence qua the same was ever led by the appellant.

5. In the light of the above, finding no merit in the appeal, same is hereby dismissed.

6. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

18.12.2024
Gaurav Sorot

(ALOK JAIN)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No