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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1675-2015 (O&M)
Date of Decision : 28.10.2025

JASBIR SINGH AND ANR .... Appellants

VERSUS

FUTURE GENERAL INSURANCE CO. LTD AND ANR .... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. N.S. Behgal, Advocate for the appellants.

Mr. Pradeep Kumar, Advocate for respondent No.1.

None for respondent No.2.

ALKA SARIN, J. (ORAL)

CM-4986-CII-2015

1. This is an application for condonation of delay of 194 days in filing the appeal.

2. For the reasons stated in the application, the same is allowed and the delay of 194 days in filing the appeal is condoned.

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3. The present appeal has been preferred by the appellants i.e. the driver and the owner of the offending vehicle challenging the award dated 16.05.2014 passed by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as the 'Tribunal') absolving the respondent No.1-Insurance Company of its liability and granting recovery rights to it on the

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ground that appellant No.1 i.e. the driver of the offending vehicle was not competent to drive the same.

4. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal, are not being adverted to herein for the sake of brevity.

5. Learned counsel for the appellants would contend that the finding of the Tribunal on issue No.5 to the effect that the driver of the offending vehicle i.e. Truck-Trolla bearing registration No.MH-46H-2711 was not competent to drive the same is erroneous. Learned counsel would further contend that the registration certificate (Ex.R4) of the offending vehicle reveals that the unladen weight of the same was 12200 kgs. Further, the driving licence of the driver (Ex.R5) which was issued by the Licensing Authority, Sangrur, Punjab and duly verified from the said office vide verification report (Annexure A-3) stated therein that DL No.7203/SGR/18/12/2000 for LMV, HMV (LMV-GV, Transport) issued in the name of Jasvir Singh, DOB 09/03/1970 son of Amar Singh had been issued by the Office on 18.12.2000 and further renewed upto 11.12.2012 vide No.Ren./3413/2009 dated 12.10.2009, reveals that he was competent to drive the offending vehicle. The accident in the present case took place on 30.09.2012. In support of his arguments, learned counsel has relied upon the Division Bench judgment of this Court in **FAO-2462-1998 [United India Insurance Company Limited V/s Kamal @ Kamla Devi & Ors. decided on 20.03.1999]**.

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6. *Per contra*, learned counsel for respondent No.1-Insurance Company has contended that there is no error in the finding returned by the Tribunal on issue No.5 and that respondent No.1-Insurance Company has rightly been absolved of its liability.

7. Heard

8. In the present case, admittedly, the appeal filed by the claimants being FAO-8162-2014 was partly allowed by this Court vide order dated 04.05.2018. The appellants herein i.e. the driver and the owner of the offending vehicle have challenged the finding of the Tribunal on issue No.5 absolving liability of respondent No.1-Insurance Company and granting recovery rights to it on the ground that the driver was not competent to drive the offending vehicle, which was a heavy goods vehicle. The driving licence of the driver has been proved on the record as Ex.R5. A perusal of the same reveals that the holder thereof is licenced to drive throughout India vehicle of the description LMV and HMV. Thus, the driver was authorized to drive a Light Motor Vehicle and a Heavy Motor Vehicle only.

9. Further, the registration certificate (Ex.R4) of the offending vehicle, which is a truck-trolla, reflects the unladen weight of the vehicle was 12200 kgs. Sections 2(16) and 2(17) of the Motor Vehicles Act, 1988 defines 'Heavy Goods Vehicle' and 'Heavy Passenger Motor Vehicle' which read as under :

> *'(16) "heavy goods vehicle" means any goods carriage the gross vehicle weight of which, or a tractor or a road-*

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roller the unladen weight of either of which, exceeds 12,000 kilograms'

(17) "heavy passenger motor vehicle" means any public service vehicle or private service vehicle or educational institution bus or omnibus the gross vehicle weight of any of which, or a motor car the unladen weight of which, exceeds 12,000 kilograms'.

10. The Hon'ble Division Bench of this Court in **United India Insurance Company Limited V/s Kamal @ Kamla Devi & Ors.** (supra) had held as under :

'It is undoubtedly correct that the Act defines different types of vehicles. It is also true that in Section 2(16) and (17) 'heavy goods vehicle' and 'heavy passenger motor vehicle' have been separately defined. However, a perusal of these definitions show that the parameters have been clearly laid down. The basic requirement is that the unladen weight should exceed 12,000 kilograms. Once this requirement is fulfilled, it cannot be said that there is any real and substantial qualitative difference between the two categories of vehicles so as to result in disqualifying the driver having a licence for a heavy motor vehicle, from driving a bus. It is not the case of the appellant that this condition was not satisfied. Still further, it is true that the Act uses the expression 'heavy passenger motor vehicle'.

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It is also true that the Act does not talk of 'heavy motor vehicles'. While the 'light motor vehicles' have been specifically defined in clause (21), no separate definition of a 'heavy motor vehicle' has been given. Despite this, it is not disputed that a competent Licensing Authority had issued the driving licence, which has been produced on record as Ex. R1. According to this licence the driver was entitled to drive a heavy motor vehicle. In the very nature of things it has reference to a vehicle other than a 'light motor vehicle'. Still further the provisions of Section 10(2) of the Act clearly contemplate the issue of driving licence for a "motor vehicle of a specified description." While a separate provision in respect of 'light motor vehicle' has been made, no distinction between a 'heavy motor vehicle' and a 'heavy passenger motor vehicle' has been made in sub section (2) of Section 10. Moreover, learned counsel has not referred to any evidence which may indicate that a person, who has a licence to drive a heavy motor vehicle is not competent to drive a bus. In this situation we find no ground to hold that the petitioner did not have a valid driving licence or to differ with the view taken by the Tribunal.'

11. Learned counsel for respondent No.1-Insurance Company has not referred to any evidence which may indicate that a person, who is licenced

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to drive a heavy motor vehicle (HMV), is not competent to drive the truck-trolla unladen weight of which is 12200 kgs.

12. In view of the above, since the driver of the offending vehicle was licenced to drive a Heavy Motor Vehicle (HMV) and unladen weight of the offending vehicle was 12200 kgs., hence, he was competent to drive the same. Accordingly, the finding of the Tribunal on issue No.5 is not sustainable and the same is set aside. It is held that the appellants and the respondent No.1-Insurance Company herein shall be jointly and severally liable to pay the compensation to the claimants.

13. No other argument has been urged.

14. In view of the above, the impugned award is modified to the extent as stated above and the present appeal stands allowed. Pending applications, if any, also stand disposed off.

28.10.2025 **(ALKA SARIN)**
Aman Jain **JUDGE**

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

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