



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-8412-2017 (O&M)
Date of Decision: July 21, 2025

Rakesh Kumar

.....Appellant

vs.

Ami Lal and ors.

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. G.C. Shahpuri, Advocate, for the appellant.

Mr. M.S. Saini, Advocate, for respondent Nos. 1 and 2.

Mr. Punit Jain, Advocate, for respondent No. 3.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Rakesh Kumar (owner of the offending vehicle) against the award dated 31.03.2017 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhari (for short, 'the Tribunal') whereby the learned Tribunal while awarding compensation to the claimants/respondent Nos. 1 to 2, fastened the liability to pay the compensation upon the appellant, on account of death of Gurmeet Kaur in a Motor Vehicular Accident, occurred on 15.04.2013.

2. As sole issue for determination in the present appeal is confined to the liability of compensation fastened by the learned Tribunal upon the present appellant-Rakesh Kumar, a detailed narration of the facts of the case is not required to be reproduced here for the sake of brevity.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

3. The learned counsel for the appellant contends that the appellant has wrongly been made liable to pay the compensation to the claimants/respondent Nos. 1 to 2 only on the ground that the driver of the offending vehicle does not possess the



valid driving licence to drive the transport vehicle. Therefore, he prays that the present appeal be allowed.

4. Learned counsel for the Insurance Company argues on the lines of the award and prays that the present appeal be dismissed.

5. I have heard learned counsel for the parties and perused the whole record of this case.

6. Before proceeding further, it is necessary to reproduce the relevant portion of the impugned award:-

“30 In the present case insurance policy Ex R5 was tendered in evidence, which is in respect of tractor trolley bearing registration No.HR02AB/6948, covering the period from 1.3.2013 to 20.2.2014. The accident took place on 15.4.2013, i.e during the period the policy was operative. Certificate regarding driving licence of respondent No.1 Rakesh Kumar, was tendered in evidence as Ex.R6, according to which, he was authorized to drive motorcycle, scooter, car/jeep/tractor only, which was valid w.e.f. 8.11.2004 to 7.11.2021.

*31. In **Subhash Chand's case (supra)** it was held that a tractor attached with trolley is transport vehicle, as defined in Motor Vehicle Act and requires a special endorsement under Section 3 of Motor Vehicles Act.*

*32. Hon'ble Supreme Court of India in case titled M/s Natwar Parikh and Company's case (**supra**) has held that tractor-trailer would constitute a "goods carriage" under Section 2(14) and consequently, a "transport vehicle" under Section 2(47). It was also held that the test to be applied in such a case is whether the vehicle is proposed to be used for transporting goods from one place to another.*

33. Counsel for respondent no.1 relied upon the judgment of Hon'ble Punjab and Haryana High Court in case titled National Insurance



Co. Ltd. vs. Kamlesh Rani's (supra) and judgment of Hon'ble Supreme Court in Kulwant Singh's case (supra), but in view of the judgment of M/S Natwar Parikh and co. Limited's case (supra), which was delivered by larger bench of Hon'ble Supreme Court, the tractor trolley would constitute a goods carriage under Section 2(14) and under Section 2(47) of the M.V. Act. Otherwise also, in view of the evidence led by respondent no.1, the tractor trolley was used for shifting the goods for Bhandara at Bala Sundri Mandir in the trolley and while return several persons were sitting in that trolley.

34. In view of this, the insurance company cannot be held liable to pay the compensation. However, the insurance company shall firstly pay the compensation and then can recover the same from respondent no.1.”

7. A perusal of the impugned award reveals that the learned Tribunal has committed a legal error in granting recovery rights in favour of the insurance company and against the appellant/owner of the offending vehicle.

8. The learned Tribunal has premised the grant of recovery rights solely on the ground that the offending vehicle i.e tractor attached with a trolley was being used as a goods carriage, thereby falling within the definition of a transport vehicle under Sections 2(14) and 2(47) of the Motor Vehicles Act, 1988. Relying upon the driving licence (Ex. R6), the learned Tribunal held that the driver was only authorised to drive a motorcycle, scooter, car/jeep, and tractor, but did not possess the requisite special endorsement to operate a transport vehicle as mandated under Section 3 of the Act.

9. However, this reasoning stands vitiated in light of the judgment of the Hon'ble Supreme Court in a case of '**M/s Bajaj Alliance General Insurance Co. Ltd. vs. Rambha Devi & Ors, 2024 INSC 840**', wherein it was categorically held that a person holding a valid driving licence for a light motor vehicle (LMV) is not required



to obtain a separate endorsement to drive a transport vehicle, provided the unladen weight of the vehicle is less than 7500 kg. The relevant portions of the judgment is reproduced as under:-

“(i) A driver holding a license for Light Motor Vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7,500 kg, is permitted to operate a ‘Transport Vehicle’ without needing additional authorization under Section 10(2)(e) of the MV Act specifically for the ‘Transport Vehicle’ class. For licensing purposes, LMVs and Transport Vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e-rickshaws, and vehicles carrying hazardous goods.

(ii) The second part of Section 3(1), which emphasizes the necessity of a specific requirement to drive a ‘Transport Vehicle,’ does not supersede the definition of LMV provided in Section 2(21) of the MV Act.

(iii) The additional eligibility criteria specified in the MV Act and MV Rules generally for driving ‘transport vehicles’ would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7,500 kg i.e. ‘medium goods vehicle’, ‘medium passenger vehicle’, ‘heavy goods vehicle’ and ‘heavy passenger vehicle’.

(iv) The decision in Mukund Dewangan (2017) is upheld but for reasons as explained by us in this judgment. In the absence of any obtrusive omission, the decision is not per incuriam, even if certain provisions of the MV Act and MV Rules were not considered in the said judgment.”

10. In the present case, the offending vehicle was a tractor, which qualifies as a light motor vehicle as per its unladen weight. The driver possessed a valid LMV



licence at the time of the accident, and hence, it cannot be said that he was disqualified from driving the said vehicle or that the vehicle was being plied in contravention of the terms of the Insurance policy.

11. Accordingly, the finding of the learned Tribunal granting recovery rights to the insurance company is not sustainable in law and is liable to be set aside. As a result, the insurance company is held solely liable to satisfy the compensation awarded to the claimant.

12. In view of the above discussion, the present appeal is allowed and the award dated 31.03.2017 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhari, is set aside to the extent that the Insurance Company is liable to pay compensation to the claimants.

13. Further it is hereby directed that the statutory amount of Rs.25,000/- deposited by the appellant at the time of filing of appeal, vide draft No. 335495 dated 24.05.2017 in the Registry of this Court be returned to him.

14. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

July 21, 2025

Gaurav Arora

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