



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

120

FAO-4253-2015 (O&M)

Date of Decision : 29.04.2025

OM PARKASH

.... Appellant

VERSUS

AMARJEET (DECEASED) THR LRS AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anil Kumar Gahlawat, Advocate for the appellant.

Mr. Hardeep Saini, Advocate for

Mr. Ravinder Kumar Rana, Advocate for respondents No.1 & 2

Mr. Rajbir Singh, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the driver of the vehicle being WagonR car bearing registration No.DL-9-CD-5648 (hereinafter referred to as 'the offending vehicle') aggrieved by the findings returned by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as the 'Tribunal') vide award dated 28.01.2015 holding the driver (the appellant herein) and the owner (respondent No.4 herein) liable to pay the compensation and exonerating respondent No.3-Insurance Company herein.

2. 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.

3. Learned counsel for the driver-appellant would contend that, as noticed in para No.22 of the impugned award dated 28.01.2015, the driver-appellant was holding a driving licence (Ex.R-2) which was valid upto 22.02.2012 for driving HTV (Heavy Transport Vehicle) and that since the offending vehicle was a WagonR car, a LMV (Light Motor Vehicle), respondent No.3-Insurance Company was exonerated. Learned counsel for the driver-appellant has relied upon the judgments passed by this Court in **FAO-2109-2016 [Ranjit Singh V/s Dheeraj Singh Gusain & Ors. decided on 15.10.2019]**; **FAO-1612-2016 [National Insurance Company Limited V/s Parkashi & Ors. decided on 10.08.2016]** and **FAO-5833-2011 [Harsewak Singh son of Niranjana Singh V/s Lajo Devi wife of Gurmail Singh decided on 25.03.2013]** to contend that since the driver-appellant was holding a licence to drive HTV (Heavy Transport Vehicle), it would in itself be a sufficient qualification to drive LMV (Light Motor Vehicle) also.

4. *Per contra*, learned counsel for respondent No.3-Insurance Company would contend that mechanism of both the LMV and the HTV are different and since the driver-appellant was driving a Light Motor Vehicle and not holding the licence for the same, hence no fault can be found with the findings returned by the Tribunal.

5. Heard.

6. In the present case, admittedly, the driver-appellant of the offending vehicle was holding a valid licence to drive HTV (Heavy Transport Vehicle) on the date of the accident.

7. This Court in **Ranjit Singh's** case (supra) has held as under :

'Reference at this stage can be made to a recent judgment of this Court in a case of National Insurance Company Ltd vs. Parkashi Devi and others, 2017 (1) PLR 361 wherein while considering the Harsewak Singh's case (supra), this Court dismissed the appeal filed by the Insurance Co., who filed the appeal on the ground that the driver was not holding a valid driving license to drive a car, as he was possessing driving license to drive HTV and motorcycle whereas the offending car was in the category of LMV. In para 13 to 15, it has been observed as under :

13. Coming to the second argument regarding not holding a valid driving license, though, issue No.3 was framed on the point, but no evidence was led by the appellant – Insurer in this regard and accordingly, it has not been discussed by the Tribunal. The copy of the driving licence, as shown by Ld. Counsel for the appellant – Insurer, reveals that it was valid from 31.10.2013 to 30.10.2016 and the driver Surender Singh was authorized to drive HTV and Motorcycle. The accident in question had occurred on 23.4.2014. In other words, on the date of accident, the driver of the

offending vehicle was holding a driving license to drive 'HTV' and 'Motorcycle', but not 'LMV'.

14. Similar issue was considered by the Jammu and Kashmir High Court in National Insurance Co. Ltd. v. Gh. Rasool Baba (Jammu and Kashmir), 2011(2) J.K.J. 357. After referring to the provisions of the Motor Vehicles Act as also the case law on the subject, it was concluded that holder of a licence to drive HTV (PE), cannot be said to be having no licence for driving Light Motor Vehicle as they are of the same type. It was observed as under :

“32. Section 10(2) of the MV Act provides that driving licence shall be express as entitling the holder to drive a motor vehicle of various classes, such as:

(a) motor cycle without gear;

(b) motor cycle with gear;

(c) invalid carriage;

(d) light motor vehicle;

(e) transport vehicle;

(f) road-roller;

(g) motor vehicle of a specified description.

33. *The aforesaid classification does not give the description of all the vehicles but gives the description of type of vehicles. In the said backdrop the vehicle (Scorpio), in the context of definitions as given to transport vehicle, is held to be the vehicle of same type.*

34. *In paragraph 47 of the three Judge judgment as referred hereinabove, it has been held that "if a person has been given a licence for a particular type of vehicle as specified therein, he cannot be said to have no licence for driving another type of vehicle which is of the same category but of different type".*

35. *Applying the same ratio to the facts of the instant case, the driver, holder of licence to drive HTV(PE), while driving a Scorpio (Light Motor Vehicle) cannot be said to be having no licence for driving such type of vehicle which in effect is not different and more so when in terms of Section 7 of the Act precondition for obtaining licence for driving transport vehicles, means heavy vehicle, is to possess licence for driving light motor vehicle at least for one year.*

38. *The category of the vehicle is of essence and then to hold license for driving a particular category of vehicles having different types can be driven by the driver who possesses driving license for driving such type of vehicles.*

39. *For the stated reasons, the driver, holder of licence to drive HTV(PE) while driving vehicle (Scorpio) cannot be said to be not holding the licence to drive such type of vehicle, so is held to be having valid and effective license, resultantly there being no violation of specified condition, the insurer is held liable to pay the compensation.”*

15. *This issue was also considered by this Court in Harsewak Singh son of Niranjan Singh v. Lajo Devi wife of Gurmail Singh (Punjab And Haryana) 2013(2) PLR 809, wherein, agreeing with the decisions of different High Courts, it was held that possession of licence to drive HTV must be seen as sufficient qualification for a person to drive a LMV also, as the mechanism to drive in both the categories of vehicles was the same.*

The ratio of above-mentioned judgments are directly applicable to the facts of the present case, as in the present case as well, the Insurance Company was given

the recovery rights merely on the ground that the appellant at the time of accident was possessing the driving license of HTV, whereas he was driving a totally different class of vehicle i.e LMV.

Accordingly, the award dated 13.05.2013 is modified to the extent that the appellant is not liable to pay compensation to the claimant and the Insurance Company is liable to make the payment of entire compensation to the claimants.

The appeal stands allowed to the above extent’.

Further, this Court in **Parkashi’s** case (supra) has held as under:

‘This issue was also considered by this Court in Harsewak Singh son of Niranjan Singh V. Lajo Devi wife of Gurmail Singh (Punjab & Haryana) 2013(2) PLR 809, wherein, agreeing with the decisions of different High Courts, it was held that possession of licence to drive HTV must be seen as sufficient qualification for a person to drive a LMV also, as the mechanism to drive in both the categories of vehicles was the same’.

In **Harsewak Singh’s** case (supra) this Court has held as under:

‘2.The learned counsel appearing on behalf of the appellant contends that there are at least three Courts, namely, Karnataka, Jammu and Kashmir and Himachal

Pradesh which have taken a view that possession of licence to drive HTV must be seen as sufficiently qualifying a person to drive a LMV as well and that the mechanism to drive in both the categories of vehicles being the same, the Insurance Company shall be bound to honour the commitment to the insured. The judgments are Srinivasagowda and another Versus Sannamma and others-1 (2011) ACC 416; National Insurance Company Limited Versus Zeba and others-2010 (2) AICJ 419; New India Assurance Company Limited Versus Dharmu and others-2005 ACJ 1149, respectively.

3. The learned counsel for the Insurance Company, however, points out that the Supreme Court has in Oriental Insurance Company Limited Versus Zaharulnisha and others- AIR 2008 Supreme Court 2218 held that a driver of scooter holding a heavy motor vehicle licence cannot be said to be duly licensed if he did not have a specific licence to drive a scooter. I have already referred to the judgment of three Courts that dealt with the issue of how the driving mechanism for driving a heavy transport vehicle shall be the same as light motor vehicle of another four-wheeler and therefore the licence was sufficient. The Supreme Court was considering the case of a person driving a scooter, but

who held a HTV licence. Driving a two-wheeler requires different skills that has no bearing to drive the four-wheeler. The judgment of the Supreme Court does not therefore apply. Yet another judgment in New Indian Assurance Company Limited Versus Roshanben Rahemansha Fakir and another-2008 AIR Supreme Court 2266 was a case where driver had a licence to drive three-wheeler but was driving a delivery van which was a goods carrying vehicle. The transport vehicle that requires a transport vehicle licence is a wholly different situation, for, there is a requirement under Section 3 of the Motor Vehicles Act that a person that drives a transport vehicle would require to have a transport vehicle endorsement to qualify for being duly licensed. This judgment also cannot apply to this case, for, the case was not being considered on the relevant driving skills.

4. The judgment of the Court below is set aside in so far as it casts liability on the owner-driver and the appeal is allowed making the insurer fully liable to indemnify the claimants arising out of the accident’.

8. In view of the above, the finding of the Tribunal exonerating respondent No.3-Insurance Company of its liability cannot be sustained in law. Accordingly, the same is set aside. Respondent No.3-Insurance

Company is held jointly and severally liable to pay the compensation to the claimants.

9. The present appeal stands disposed off in the above terms.
Pending applications, if any, also stand disposed off.

29.04.2025

Aman Jain

(ALKA SARIN)

JUDGE

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