
(1999) 03 P&H CK 0003

In the Punjab And Haryana At Chandigarh

Case No : First Appeal From Order No. 2462 of 1998

United India Insurance Company Ltd.

APPELLANT

Vs

Kamal alias Kamla Devi and Others

RESPONDENT

Date of Decision : 20-03-1999

Acts Referred:

Motor Vehicles Act, 1988 — Section 10(2)

Citation : (2000) 1 ACC 52 : (2000) ACJ 1461 : (1999) 2 ILR (P&H) 335 :
(1999) 122 PLR 311 : (1999) 3 RCR(Civil) 204

Hon'ble Judges : N.K. Agrawal, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : V. Ramswaroop, for the Appellant;

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—On February 24, 1996 Brij Nath Ram was going on a scooter. He was hit by a bus. He died on the spot. His legal representatives, viz. widow and children, filed a claim petition. The Motor Accident Claims Tribunal has found that the accident had occurred on account of the rash and negligent driving by the bus driver. The deceased was 47 years of age. He was contributing Rs. 44,656/- per annum to the family. Applying a multiplier of "1V, the Tribunal assessed the compensation at Rs. 4,91,216/-. Rs. 7,000/- were awarded on account of loss of consortium and funeral expenses etc. Thus, a total compensation of Rs. 4,98,300/- was awarded along with interest at the rate of 12 per cent per annum. It was also held that the driver was having a valid driving licence.

2. Aggrieved by the award, the insurer has filed the present appeal.

3. Mr. V. Ramswaroop, learned counsel for the appellant, has contended that the Insurance Company could not have been burdened with the responsibility to pay the compensation. Learned counsel urges that the driver had licence for "Heavy Motor Vehicle". Thus, he was not entitled to drive a "Heavy Passenger Motor

Vehicle". This contention is based on the provisions of Sections 2 and 10 of the Motor Vehicles Act, 1988. Learned counsel submits that a "heavy motor vehicle" is unknown to the Act. It is only when a person has a licence for driving a "heavy passenger motor vehicle" that he can drive a bus. Is it so?

4. 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 shows 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". It is also true that the Act does not talk of "heavy motor vehicles". While "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.

5. Mr. Ramswaroop has referred to the Division Bench judgment in National Insurance Co. Ltd. Vs. Shinder Kaur and Others, . This was a case where a person was licensed to drive a motor-car. He was driving a truck. It was held that he was not licensed to drive a truck. Such is not the situation in the present case.

6. No other point has been raised.

7. In view of the above, we find no merit in this appeal. It is consequently, dismissed in limine. No costs.