

(2013) 07 P&H CK 0673

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 3221 of 2012 (O and M)

Jaswant Singh and Another

APPELLANT

Vs

United India Assurance
Company Ltd. and Others

RESPONDENT

Date of Decision: July 16, 2013

Citation: (2014) 1 ACC 787 : (2013) 172 PLR 222

Hon'ble Judges: Vijender Singh Malik, J

Bench: Single Bench

Advocate: Gurmeet Singh Saini, for the Appellant; R.N. Singhal, for the Respondent

Final Decision: Dismissed

Judgement

Vijender Singh Malik, J.

This is an appeal by the driver and owner of the offending vehicle. They have challenged the award dated 16.02.2012 vide which respondent No. 1 Jaswant Singh has been held as not proved to be having a valid and effective driving licence at the time of the accident under issue No. 6. In view of the finding on issue No. 6, learned Tribunal has exonerated the insurance company i.e. respondent No. 2 and has held respondents No. 1 and 3 (appellants before this court) to be jointly and severally liable to pay the compensation to the claimants. The short point involved in this appeal is as to whether Jaswant Singh, who was holding a driving licence authorizing him to drive a light motor vehicle was entitled to drive a transport vehicle as Mohindra Pick Up No. PB-05H-9590 is. In view of the fact that this short question is involved in this appeal, the facts of the matter are not required to be noticed here.

2. Learned counsel for the appellants has contended that a transport vehicle is included in the definition of "light motor vehicle" as it appears in section 2(21) of the Motor Vehicles Act, 1988 (for short the Act). According to him, light motor vehicle means a transport vehicle as per the definition and, therefore, appellant No. 1 Jaswant Singh, who was holding a licence authorizing him to drive light motor vehicle was authorized to drive a transport vehicle. He has supported his submission

with a decision of this court in [Oriental Insurance Company Vs. Mukesh,](#) . In the reported case, the driver was authorized to drive light motor vehicle. He was, however driving a passenger vehicle, on account of the driving of which, death was caused. Insurance company claimed itself to be not liable to pay compensation. It has been held that light motor vehicle covers both light passenger carriage vehicle and light goods carriage vehicle and, therefore, driver holding a valid driving licence for light motor vehicle was authorized to drive a light goods vehicle as well.

3. Learned counsel for respondent No. 1, on the other hand, has submitted that the law laid down in the above cited decision cannot be followed in view of the direct decision of Hon"ble Supreme Court of India on the point. He drew attention of this court to [New India Assurance Co. Ltd. Vs. Prabhu Lal,](#) According to him, this decision might not have been brought to the notice of Hon"ble Single Judge in Mukesh's case supra. He has further submitted that in view of the ratio of Prabhu Lal's case supra, the appellant Jaswant Singh cannot be held to be holding a valid and effective driving licence while driving the Mohindera Pick Up in question and, therefore, the insurance company was not liable to pay compensation.

4. In Prabhu Lal's case supra a transport vehicle was driven by a person, who possessed licence to drive light motor vehicle. The said vehicle met with an accident causing injuries to a passenger. It was held that driver was not having licence to drive a transport vehicle in absence of necessary endorsement in his licence to that effect as required u/s 3 of the Act and therefore, the insurance company was not liable to pay compensation.

5. Needless to say that in the face of ratio of Prabhu Lal's case supra, the decision of this court in Mukesh's case supra cannot be followed. The decision in Prabhu Lal's case supra is directly on the point involved in this appeal. Therefore, it is held that Jaswant Singh, who was holding a driving licence to drive a light motor vehicle could not drive a transport vehicle, which the Mohindera Pick Up in question has been. Therefore, finding of learned Tribunal on issue No. 6 is affirmed. In this view of the matter, the appeal fails and is dismissed with no order as to costs.