

Motor Vehicles Act, 1988 (59 of 1988), S. 149(2), Section 66 - Use of a vehicle in a public place without a permit is a fundamental statutory infraction - No transport vehicle can be used without permit - Vehicle at the time of the accident did not have a permit - Not stated whether the vehicle had temporary permit or any other kind of permit - The exceptions that have been carved out under Section 66 of the Act, needless to emphasise, are to be pleaded and proved - The exceptions cannot be taken aid of.....

in the course of an argument to seek absolution from liability - We are disposed to think so in view of the series of exceptions carved out in Section 66 - The said situations cannot be equated with absence of licence or a fake licence or a licence for different kind of vehicle, or, for that matter, violation of a condition of carrying more number of passengers - Insurer had taken the plea that the vehicle in question had no permit - Nothing has been brought on record by the insured to prove that he had a permit of the vehicle - In such a situation, the onus cannot be cast on the insurer - Principles laid down in *National Insurance Co. Ltd. v. Swaran Singh (2004-1)136 PLR 510 (SC)*. and *Lakhmi Chand v. Reliance General Insurance⁸, (2016-2)184 PLR 174 (SC)* would not be applicable.

Held, Therefore, the tribunal as well as the High Court had directed the insurer was required to pay the compensation amount to the claimants with interest with the stipulation that the insurer shall be entitled to recover the same from the owner and the driver. The said directions are in consonance with the principles stated in *Swaran Singh (supra)* and other cases pertaining to pay and recover principle. [Para 23, 24]

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