

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 2435/2020

1. Rajendra Prasad S/o Budh Ram, Aged About 51 Years, R/o Sarup Sarai, Tehsil Mundawar, District Alwar And Also At Mohalla Buchaheda Kotputli, District Jaipur (Owner - Matador No. RJ-32-GA-4644)
2. Kuldeep Singh S/o Bhup Singh, R/o Rajbada, Tehsil And Thana Mundawar, District Alwar (Driver -Matador No. RJ-32-GA-4644)

----Appellants

Versus

1. ICICI Lombard General Insurance Company Limited, Bank Tower, Bandra Kurla Complex, Mumbai Branch Office At Alwar Through Its Manager (Insurer- Matador No. Rj-32-Ga-4644)
2. Chetan Prakash Sharma S/o Shri Ram Sharma, Aged About 35 Years, R/o Sirod Khurd, Tehsil Mundawar, District Alwar
3. Chetan Prakash Sharma S/o Shri Ram Sharma, R/o Sirod Khurd, Tehsil Mundawar, District Alwar
4. Naveen Prakash Sharma S/o Srh Ram Sharma, R/o Sirod Khurd, Tehsil Mundawar, District Alwar

----Respondents

For Appellant(s)	:	Mr.Vinay Mathur with Mr.Ashish Mittal
For Respondent(s)	:	Mr.Shashank Bhansali Mr.Chanderdeep Singh Jodha

JUSTICE ANOOP KUMAR DHAND

Order

25/02/2026

1. The facts of the instant case are unique, inasmuch as certain orders were passed by this Court previously on two different occasions in favour of the Insurance Company wherein it was held that the Insurance Company has been wrongly exonerated by the

Tribunal from its liability to pay compensation to the claimants, but in spite of the above, liability has been fastened by the Tribunal upon the Driver and Owner of the offending vehicle to pay amount of compensation to the claimants and time and again, the Insurance Company has been exonerated from the liability, in contravention to the judgments passed by the Full Bench of the Hon'ble Apex Court in the case of **Mukund Dewangan Vs. Oriental Insurance Company Limited** reported in **(2017) AIR (SCW) 3668** and Constitutional Bench judgment of the Hon'ble Apex Court in the case of **M/s Bajaj Alliance General Insurance Co. Ltd. Vs. Rambha Devi & Ors.** in **Civil Appeal No.841 of 2018** dated 06.11.2024.

2. By way of filing the instant appeal, once again a challenge has been led to the impugned award dated 21.06.2013, passed by the Motor Accident Claims Tribunal, Kishangarhbas, Alwar (hereinafter referred to as "the Tribunal") in MAC Case No.121/2009 by which the claim petition filed by the claimants-respondents (hereinafter referred to as "the claimants") has been allowed and the Insurance Company, i.e., the respondent No.1 has been exonerated from its liability to pay any amount of compensation to the claimants and the entire liability has been fastened upon the Driver and Owner of the offending vehicle, i.e., non-claimants-appellants.

3. The brief facts of the case are that an accident occurred on 25.06.2009, wherein the Driver of the offending vehicle (Matador) bearing No.RJ32-GA-4644, i.e., appellant No.1 while driving the said vehicle in a rash and negligent manner, hit the motorcycle

being driven by the deceased-Shriram wherein he sustained several grievous injuries and subsequently he died on 26.06.2009 during the course of treatment in the hospital. Thereafter, the claimants approached the Tribunal by way of filing a claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the MV Act") and the same was allowed vide judgment dated 08.09.2011, whereby the Insurance Company was exonerated from its liability to pay compensation to the claimants on a technical count that the Driver of the offending vehicle was in possession of licence to operate Light Motor Vehicle (for short, "the LMV") while he was driving a Light Commercial Vehicle and this was the precise reason for exonerating the insurance company.

4. It appears that aggrieved by the aforesaid judgment and award dated 08.09.2011, two different Civil Misc. Appeals were preferred before this Court, one by the claimants and another by the Owner of the offending vehicle.

5. The S.B. Civil Misc. Appeal No.7423/2011 (Smt. Prem Devi & Ors. Vs. Kuldeep Singh & Ors.) submitted by the claimants was disposed of ex-parte by the Co-ordinate Bench of this Court vide order dated 03.01.2013, without issuing notices to the Owner and Driver of the offending vehicle and the matter was remanded back to the Tribunal for fresh adjudication.

6. It appears that another appeal viz., S.B. Civil Misc. Appeal No.4600/2012 (Rajendra Prasad Vs. I.C.I.C.I. Lombard General Insurance Company Limited & Ors.) submitted by the Owner of the offending vehicle remained undecided at the relevant time and

was not tagged with S.B. Civil Misc. Appeal No.7423/2011 submitted by the claimants. It was allowed vide order dated 15.03.2018 by the Co-ordinate Bench of this Court, after hearing all the sides, in light of the judgment passed by the Hon'ble Apex Court in the case of **Mukund Dewangan** (supra), wherein it was held as under :-

"Appellant has filed this appeal, challenging the award dated 08.09.2011 passed by the Motor Accident Claims Tribunal.

Learned counsel for the appellant has submitted that the appellant is the owner of the vehicle in question. Tribunal has erred in exonerating the insurance company on the ground that the driver of the offending vehicle was not holding a valid driving licence at the time of accident. In-fact, the driver of the vehicle in question was holding a valid driving licence to drive a light motor vehicle. Learned counsel has challenged the finding of the Tribunal on issue No.5. In support of his arguments, learned counsel has placed reliance on the decision of the Hon'ble Supreme Court in ***Mukund Dewangan Versus Oriental Insurance Company Limited AIR 2017 (SC) 3668***, wherein it was held as under:-

"Section 10 of the Act requires a driver to hold a licence with respect to the class of vehicles and not with respect to the type of vehicles. In one class of vehicles, there may be different kinds of vehicles. If they fall in the same class of vehicles, no separate endorsement is required to drive such vehicles. As light motor vehicle includes transport vehicle also, a holder of light motor vehicle licence can drive all the

vehicles of the class including transport vehicles. It was pre-amended position as well the post-amended position of Form 4 as amended on 28.3.2001. Any other interpretation would be repugnant to the definition of "light motor vehicle" in section 2(21) and the provisions of section 10(2)(d), Rule 8 of the Rules of 1989, other provisions and also the forms which are in tune with the provisions. Even otherwise the forms never intended to exclude transport vehicles from the category of 'light motor vehicles' and for light motor vehicle, the validity period of such licence hold good and apply for the transport vehicle of such class also and the expression in Section 10(2)(e) of the Act 'Transport Vehicle' would include medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle, heavy passenger motor vehicle which earlier found place in Section 10(2)(e) to (h) and our conclusion is fortified by the syllabus and rules which we have discussed. Thus we answer the questions which are referred to us thus:

(i) 'Light motor vehicle' as defined in section (2) (21) of the Act would include a transport vehicle as per the weight prescribed in section 2 (21) read with section 2 (15) and 2 (48). Such transport vehicles are not excluded from the definition of the light motor vehicle by virtue of Amendment Act No.54/1994.

(ii) A transport vehicle and omnibus, the gross vehicle weight of either of which does

not exceed 7500 kg. would be a light motor vehicle and also motor car or tractor or a road roller, 'unladen weight' of which does not exceed 7500 kg. and holder of a driving licence to drive class of "light motor vehicle" as provided in Section 10(2)(d) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg. or a motor car or tractor or road-roller, the "unladen weight" of which does not exceed 7500 kg. That is to say, no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class as enumerated above. A licence issued under Section 10(2)(d) continues to be valid after Amendment Act 54/1994 and 28.3.2001 in the form.

(iii) The effect of the amendment made by virtue of Act No.54/1994 w.e.f. 14.11.1994 while substituting clauses (e) to (h) of Section 10(2) which contained "medium goods vehicle" in Section 10(2)(e), medium passenger motor vehicle in Section 10(2)(f), heavy goods vehicle in Section 10(2)(g) and "heavy passenger motor vehicle" in Section 10(2)(h) with expression 'transport vehicle' as substituted in section 10(2) (e) related only to the aforesaid substituted classes only. It does not exclude transport vehicle, from the purview of Section 10(2)(d) and Section (2)(41) of the Act i.e. light motor vehicle.

(iv) The effect of amendment of Form 4 by insertion of "transport vehicle" is related only to the categories which were

substituted in the year 1994 and the procedure to obtain driving licence for transport vehicle of class of "light motor vehicle" continues to be the same as it was and has not been changed and there is no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect".

7. The Co-ordinate Bench in the aforesaid appeal after going through the judgment passed by the Hon'ble Apex Court has held that the Driver of the offending vehicle was competent to drive the Light Commercial Vehicle on the basis of the licence for operating the LMV and it has been held as under:-

"In the present case, admittedly, the driver of the offending vehicle was having a driving licence authorizing him to drive a 'light motor vehicle'. The vehicle in question bearing registration No. RJ-32-GA-4644 has been described as 'light commercial vehicle' in the Registration Certificate and its unladen weight is 2660 Kilograms. As per section 2 (21) of Motor Vehicles Act, 1988, 'light motor vehicle' means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road roller the unladen weight of any of which, does not exceed 7,500 Kilograms.

In the present case, the unladen weight of the vehicle in question is 2620 Kilograms. Hence, the vehicle in question would fall within the definition of 'light motor vehicle'. In view of the decision of the Hon'ble Supreme Court in Mukund

Dewangan's case (supra) driver of the vehicle was not required to have a separate endorsement qua the class of vehicle in question that he could drive the transport vehicle as he was already having a valid driving licence to drive a light motor vehicle. In view of the decision of the Hon'ble Supreme Court in Mukund Dewangan's case (supra), Tribunal fell in error in exonerating the insurance company from its liability to indemnify the insurer on the ground that the driver of the vehicle was not having a valid driving licence to drive the offending vehicle at the time of accident. Accordingly, the issue No.5 is decided against the respondent No.1 and in favour of the appellant and respondent No.2.

Accordingly, this appeal is allowed. Award dated 08.09.2011 is modified to the extent that the appellant (Owner of the vehicle in question) as well as respondent No.1 (Insurance Company) and respondent No.2 (driver of the offending vehicle) would be liable for payment of compensation jointly and severally to the claimants."

8. While allowing the aforesaid appeal, the award dated 08.09.2011 was modified and it was held that the Driver and Owner of the offending vehicle as well as the Insurance Company would be jointly and severally liable to pay compensation to the claimants.

9. It appears that pendency of the aforesaid appeal was not brought into the notice of the Tribunal and the Tribunal once again decided the matter vide impugned judgment and award dated 21.06.2013 and this time also, the Insurance Company has been

exonerated from its liability to pay compensation to the claimants on the technical count that the Driver of the offending vehicle was not in possession of a valid licence, inasmuch as he was in possession of a licence to operate an LMV, whereas he was driving a Light Commercial Vehicle.

10. It has been argued by counsel for the appellant that the aforesaid judgment was passed in absence of the appellants as they were not aware about the remand of the matter as the claimants' appeal (S.B. Civil Misc. Appeal No.7423/2011) was decided ex-parte vide judgment dated 03.01.2013, without issuing notices to the Owner and Driver of the offending vehicle, i.e., the appellants herein.

11. After remand of the matter, the impugned judgment and award was passed on 21.06.2013 and again, the insurance company was exonerated.

12. Learned counsel for the appellants submits that the unladen weight of the vehicle in question is 2620 kilograms and the laden weight of the vehicle in question is 5700 kilograms. Counsel submits that the definition of 'Light Motor Vehicle', as contained under Section 2(21) of the MV Act includes a transport vehicle within the specified limits, i.e., the gross weight or unladen weight thereof should not exceed 7500 kilograms.

13. Counsel submits that the issue involved in this appeal has already been set at rest not only by the Full Bench of the Hon'ble Apex Court in the case of **Mukund Dewangan** (supra), but also by the 5 Judge Constitutional Bench of the Hon'ble Apex Court in the case of **Rambha Devi** (supra).

14. This Court has perused the aforesaid Constitutional Bench judgment of the Hon'ble Apex Court in the case of **Rambha Devi** (supra), wherein at the concluding part of the aforesaid judgment, it has been held by the Hon'ble Apex Court in Para No.131 as under:-

"131. Our conclusions following the above discussion are 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, erickshaws, 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."

15. Learned counsel appearing on behalf of the Insurance Company, though opposed the arguments raised by counsel for the appellants, but he is not in a position to dispute the controversy in question, being settled by the Hon'ble Apex Court.

16. The issue in question has already decided not only by the Full Bench of the Hon'ble Apex Court in the case of **Mukund Dewangan** (supra), but also by the Constitutional Bench of the Hon'ble Apex Court in the case of **Rambha Devi** (supra), hence, under these circumstances, this Court finds no valid reason to take a different view and the same is also followed by this Court.

17. Hence, under these circumstances, looking to the fact that the Tribunal has committed an error in exonerating the Insurance Company from its liability to indemnify the appellants on the ground that the Driver of the vehicle was not having a valid licence to drive the offending vehicle at the time of accident, the issue No.5 is decided against the respondent No.1 and in favour of the appellants and the claimants-respondent Nos.2 to 4.

18. Accordingly, the instant appeal stands allowed. The judgment and award dated 21.06.2013 passed by the Tribunal stands

modified to the extent that the appellants, i.e., owner and driver of the vehicle in question as well as respondent No.1, i.e., the Insurance Company are held liable to pay compensation jointly and severally to the claimants.

16. The Tribunal is directed to return the statutory amount to the appellants, deposited by them, in terms of the provisions contained under Section 173 of the MV Act.

17. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J