



R E P O R T A B L E

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.5826 OF 2011

MUKUND DEWANGAN

...APPELLANT(S)

VERSUS

ORIENTAL INSURANCE COMPANY LIMITED

...RESPONDENT(S)

WITH

SPECIAL LEAVE PETITION (C) NO.32828 OF 2010

SPECIAL LEAVE PETITION (C) NO.32833 OF 2010

SPECIAL LEAVE PETITION (C) NO.32835 OF 2010

SPECIAL LEAVE PETITION (C) NOS.8709-8710 OF 2014

SPECIAL LEAVE PETITION (C) NOS.8712-8713 OF 2014

SPECIAL LEAVE PETITION (C) NO.20072 OF 2015

SPECIAL LEAVE PETITION (C) NO.3300 OF 2015

SPECIAL LEAVE PETITION (C) NO.3302 OF 2015

SPECIAL LEAVE PETITION (C) NOS.887-890 OF 2013

SPECIAL LEAVE PETITION (C) NO.16082 OF 2012

SPECIAL LEAVE PETITION (C) NOS.28455-28456 OF 2013

CIVIL APPEAL NO.6379 OF 2013

SPECIAL LEAVE PETITION (C) NO.13008 OF 2014

SPECIAL LEAVE PETITION (C) NOS.15759-15760 OF 2014

SPECIAL LEAVE PETITION (C) NOS.14333-14334 OF 2014

SPECIAL LEAVE PETITION (C) NO.6429 OF 2015

SPECIAL LEAVE PETITION (C) NOS.36364-36365 OF 2014

SPECIAL LEAVE PETITION (C) NO.15924 OF 2015

CIVIL APPEAL NO.9990 OF 2014

SPECIAL LEAVE PETITION (C) NOS.8704-8706 OF 2014

CIVIL APPEAL NOS.4068-4069 OF 2012

SPECIAL LEAVE PETITION (C) NO.32827 OF 2010

SPECIAL LEAVE PETITION (C) NO.15881 OF 2016

SPECIAL LEAVE PETITION (C) NO.28778 OF 2016

SPECIAL LEAVE PETITION (C) NO.2492-2493 OF 2016

CIVIL APPEAL NO.8992 OF 2012

SPECIAL LEAVE PETITION (C) NO.25373 OF 2014

J U D G M E N T

ARUN MISHRA, J.

1. In the reference, the main question involved is whether a driver who is having a licence to drive 'light motor vehicle' and is driving 'transport vehicle' of that class is required additionally to obtain an

endorsement to drive a transport vehicle? There is a conflict in the plethora of decisions of this Court. In *Ashok Gangadhar Maratha v. Oriental Insurance Co. Ltd.* (1999) 6 SCC 620, *S. Iyyapan v. United India Insurance Co. Ltd. and Anr.* (2013) 7 SCC 62, *Nagashetty v. United India Insurance Co. Ltd. & Ors.* (2001) 8 SCC 56, the view taken by this Court was that when a driver is holding a licence to drive 'light motor vehicle', he is competent to drive a 'transport vehicle' of that category without specific endorsement to drive the transport vehicle; whereas in *New India Assurance Co. Ltd. v. Prabhu Lal* (2008) 1 SCC 696, a view had been taken that before 2001 also, it was necessary for a driver possessing driving licence to drive light motor vehicle to obtain an endorsement to drive transport vehicle of that class; whereas in *National Insurance Co. Ltd. v. Annappa Irappa Nesaria alias Nesargi & Ors.* (2008) 3 SCC 464, a distinction was made in the legal position which existed before 28.3.2001 i.e. the date of amendment of the form and subsequent thereto. It was opined that before 28.3.2001 there was no necessity for the holder of a licence to drive light motor vehicle to obtain an endorsement to drive transport vehicle of that class. He could drive transport vehicle of Light Motor Vehicle category on the basis of holding a licence to drive light motor vehicle. In *New India Assurance Co. Ltd. v. Roshanben Rahemansha Fakir & Anr.* (2008) 8 SCC 253 and *Oriental Insurance Co.*

Ltd. v. Angad Kol & Ors. (2009) 11 SCC 356, the view had been taken that a driver holding licence to drive light motor vehicle in order to drive 'transport vehicle' of that class has to obtain a specific endorsement on licence authorizing him to drive a transport vehicle.

2. Following questions have been referred for decision to the larger

Bench :

1. What is the meaning to be given to the definition of "light motor vehicle" as defined in Section 2(21) of the MV Act? Whether transport vehicles are excluded from it?
2. Whether '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 licence to drive the class of "light motor vehicle" as provided in Section 10(2)(d) would be competent to drive a transport vehicle or omnibus, the "gross vehicle weight" of which does not exceed 7500 kgs. or a motor car or tractor or road roller, the "unladen weight" of which does not exceed 7500 kgs. ?
3. What is the effect of the amendment made by virtue of Act No. 54 of 1994 w.e.f. 14.11.1994 while substituting Clauses (e) to (h) of Section 10(2) which contained "medium goods vehicle", "medium passenger motor vehicle", "heavy goods vehicle" and "heavy passenger motor vehicle" by "transport vehicle"? Whether insertion of expression 'transport vehicle' Under Section 10(2)(e) is related to said substituted classes only or it also excluded transport vehicle of light motor vehicle class from the purview of Sections 10(2)(d) and 2(41) of the Act?
4. What is the effect of Amendment of Form 4 as to the operation of the provisions contained in Section 10 as amended in the year 1994 and whether the procedure to obtain the driving licence for transport vehicle of the class of "Light Motor Vehicle" has been changed ?"

There is a conflict in the aforesaid decisions of this Court with respect to the legal position as to pre-amended and also the post-amendment legal position of the amendment made on 28.3.2001 in the Forms for driving licence. In order to answer the questions, it is necessary to consider the various provisions of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act').

3. Section 3 of the Act deals with the necessity for driving licence which is extracted hereunder:

“S.3. Necessity for driving licence.-- (1) No person shall drive a motor vehicle in any public place unless he holds an effective driving licence issued to him authorising him to drive the vehicle; and no person shall so drive a transport vehicle [other than ¹[a motor cab or motor cycle] hired for his own use or rented under any scheme made under sub-section (2) of section 75] unless his driving licence specifically entitles him so to do.

(2) The conditions subject to which sub-section (1) shall not apply to a person receiving instructions in driving a motor vehicle shall be such as may be prescribed by the Central Government.”

1. Subs. by Act 54 of 1994, sec. 3, for “a motor cab” (w.e.f. 14-11-1994).”

It is apparent from the provisions contained in section 3 that it is necessary to have a licence to drive a motor vehicle in any public place and in order to drive a transport vehicle, the driving licence must specifically entitle him to do so. The question is what is the meaning to be given to ‘transport vehicle’ under Section 3.

4. Driving licence has been defined in section 2(10) of the Act. The section is extracted hereunder:

“2 (10) “driving licence” means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive, otherwise than as a learner, a motor vehicle or a motor vehicle of any specified class or description;”

It is apparent from the definition of driving licence that licence is issued authorizing the person specified in the licence to drive a motor vehicle or a motor vehicle of any specified class or description. Significantly, the definition of ‘driving licence’ categorizes the licence of any specified class or description.

5. Section 10 deals with the Form and contents of the licences to drive. Section 10 as it stood before its amendment made in the year 1994 by virtue of Amendment Act 54 of 1994 is extracted hereunder:

“10. Form and contents of licences to drive.--(1) Every learner's licence and driving licence, except a driving licence issued Under Section 18, shall be in such form and shall contain such information as may be prescribed by the Central Government.

(2) A learner's licence or, as the case may be, driving licence shall also be expressed as entitling the holder to drive a motor vehicle of one or more of the following classes, namely:-

- (a) motorcycle without gear;
- (b) motorcycle with gear;
- (c) invalid carriage;
- (d) light motor vehicle;
- (e) medium goods vehicle;
- (f) medium passenger motor vehicle;
- (g) heavy goods vehicle;

- (h) heavy passenger motor vehicle;
- (i) roadroller;
- (j) motor vehicle of a specified description.””

It is apparent from the pre-amended provision which existed before the amendment made in the year 1994 that class or description of the vehicle for which licence used to be issued were categorized *inter alia* as light motor vehicle, medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle, heavy passenger motor vehicle and motor vehicle of a specified description. Transport vehicle was not a separate class, and it could be under section 10(1) (d) to (h).

6. The amendment had been made in section 10 by virtue of Amendment Act 54 of 1994. The Statement of Objects and Reasons of the Amendment Act being relevant is extracted hereunder:

“Amendment Act 54 of 1994 – Statement of Objects and Reasons.-The Motor Vehicles Act, 1988 (59 of 1988) consolidated and rationalised various laws regulating road transport. The Act came into force with effect from 1st July 1989 replacing the Motor Vehicles Act, 1939.

2. After the coming into force of the Motor Vehicles Act, 1988, Government received a number of representations and suggestions from the state govt. transport operators and members of public regarding the inconvenience faced by them because of the operation of some of the provisions of the 1988 Act. A Review Committee was, therefore, constituted by the Government in March 1990 to examine and review the 1988 Act.

3. The recommendations of the Review Committee were forwarded to the State Governments for comments and they generally agree with these recommendations. The Government also considered a large number of representations received, after finalisation of the Report of the Review Committee, from the

transport operators and public for making amendments in the Act. The draft of the proposals based on the recommendation of the Review Committee and representations from the public were placed before the Transport Development Council for seeking their views in the matter. The important suggestions made by the Transport Development Council relate to, or are on account of,-

(a) The introduction of newer type of vehicles and fast increasing number of both commercial and personal vehicles in the country.

(b) Providing adequate compensation to victims of road accidents without going into long drawn procedure;

(c) Protecting consumers' interest in Transport Sector;

(d) Concern for road safety standards, transport of hazardous chemicals and pollution control;

(e) Delegation of greater powers to State Transport Authorities and rationalising the role of public authorities in certain matters;

(f) The simplification of procedures and policy liberalisation in the field of Road Transport;

(g) Enhancing penalties for traffic offenders.

4. Therefore, the proposed legislation has been prepared in the light of the above background. The Bill inter alia provides for-

(a) modification and amplification of certain definitions of new type of vehicles;

(b) simplification of procedure for grant of driving licences;

(c) putting restrictions on the alteration of vehicles;

(d) certain exemptions for vehicles running on non-polluting fuels;

(e) ceilings on individuals or Co. holdings removed to curb "benami" holdings;

(f) States authorised to appoint one or more State Transport Appellate Tribunals;

(g) punitive checks on the use of such components that do not conform to the prescribed standards by manufactures, and also stocking/sale by the traders;

(h) increase in the amount of compensation of the victims of hit and run cases;

(i) removal of time limit for filling of application by road accident victims for compensation;

(j) punishment in case of certain offences is made stringent;

(k) a new pre-determined formula for payment of compensation to road accident victims on the basis of age/income, which is more liberal and rational.

5. The Law Commission in its 119th Report had recommended that every application for a claim be made to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the Defendant resides, at the option of the claimant. The bill also makes necessary provision to give effect to the said recommendation.”

7. The pre-amended provision of Section 10 contained the vehicles of ten kinds in Section 10(2) (a) to (j). In order to simplify the procedure for obtaining the licence, categories like medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle, and heavy passenger motor vehicle were deleted and one category was inserted for these four kinds of vehicles in the form of “transport vehicle” in section 10(2)(e) so that drivers are not required to obtain the licence again and again for aforesaid four kinds of vehicles. The provision of section 10 after amendment made by Act 54 of 1994 is extracted hereunder:

“10. Form and contents of licences to drive.--(1) Every learner's licence and driving licence, except a driving licence issued Under Section 18, shall be in such form and shall contain such information as may be prescribed by the Central Government.

(2) A learner's licence or, as the case may be, driving licence shall also be expressed as entitling the holder to drive a motor vehicle of one or more of the following classes, namely:-

- (a) motorcycle without gear;
- (b) motorcycle with gear;
- (c) invalid carriage;
- (d) light motor vehicle;
- (e) transport vehicle;
- (f) – (h)
- (i) road-roller;
- (j) motor vehicle of a specified description.”

8. Before dilating further, it is necessary to consider other definitions as ‘gross vehicle weight’ has co-relation with the classification of vehicles into a light motor vehicle, medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle, and heavy passenger motor vehicle.

The definitions of aforesaid class of vehicles are extracted hereunder:

“2. Definitions.

(16) “heavy goods vehicle” means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which, exceeds 12,000 kilograms;

(17) “heavy passenger motor vehicle” means any public service vehicle or private service vehicle or educational institution bus or omnibus the gross vehicle weight of any of which, or a motor car the unladen weight of which, exceeds 12,000 kilograms;

(21) “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 ²[7500] kilograms;

(23) “medium goods vehicle” means any goods carriage other than a light motor vehicle or a heavy goods vehicle;

(24) “medium passenger motor vehicle” means any public service vehicle or private service vehicle, or educational institution bus other than a motor cycle, invalid carriage, light motor vehicle or heavy passenger motor vehicle;”

9. The definition of ‘gross vehicle weight’ and ‘unladen weight’ are also significant as the expression finds a place in the aforesaid definitions.

Said definitions in sections 2(15) and 2(48) are as under:

“2(15) “gross vehicle weight” means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle;

“2 (48) "unladen weight" means the weight of a vehicle or trailer including all equipments ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body;

10. ‘Transport vehicle’ has been referred in section 2(47) of the Act thus:

“2 (47) "transport vehicle" means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle;”

Various expressions find a place in the aforesaid definition of ‘transport vehicle’. Each of them has been defined separately and they are extracted thus:

“2 (11) “educational institution bus” means an omnibus, which is owned by a college, school or other educational institution and

used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities;

2 (14) “goods carriage” means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods;

2 (33) “private service vehicle” means a motor vehicle constructed or adapted to carry more than six persons excluding the driver and ordinarily used by or on behalf of the owner of such vehicle for the purpose of carrying persons for, or in connection with, his trade or business otherwise than for hire or reward but does not include a motor vehicle used for public purposes;

2 (35) "public service vehicle" means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a maxicab, a motor cab, contract carriage, and stage carriage;”

11. ‘Motor car’, ‘omnibus’ and ‘tractor’ have been defined in the Act thus:

“2(26) “motor car” means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage;

2(29) “omnibus” means any motor vehicle constructed or adapted to carry more than six persons excluding the driver;

2(44) "tractor" means a motor vehicle which is not itself constructed to; carry any load (other than equipment used for the purpose of propulsion), but excludes a road-roller;”

12. Section 9 of the Act deals with grant of driving licence. Any person can apply for driving licence unless he is disqualified for holding or obtaining a driving licence. The application has to be filed in such form as may be prescribed by the Central Government as provided in section 9(2). The applicant has to pass a test also, as provided in section 9(3). It

is further provided in section 9(4) that a person applying for the licence to drive a transport vehicle shall possess such minimum educational qualification as may be prescribed by the Central Government. Licensing authority may refuse to issue a licence to a habitual criminal or a habitual drunkard or who is habitually addicted to any narcotic drug or psychotropic substance or whose licence had been revoked earlier.

13. Prior to amendment in 1994 licence for transport vehicle was clearly covered as per section 10(2) in five categories, *i.e.*, Section 10(2)(d) light motor vehicle, Section 10(2)(e) medium goods vehicle, Section 10(2)(f) medium passenger motor vehicle, Section 10(2)(g) heavy goods vehicle and Section 10(2)(h) heavy passenger motor vehicle. The licence for 'light motor vehicle' has been provided in section 10(2)(d). The expression 'transport vehicle' has been inserted by virtue of Amendment Act 54/1994 in section 10(2)(e) after deleting four categories or classes of vehicles, *i.e.* medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle, and heavy passenger motor vehicle. Earlier Section 10 did not contain the separate class of transport vehicles.

14. The definition of 'light motor vehicle' makes it clear that for 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 7500 kgs. 'Gross vehicle weight' has been defined

in section 2(15). The motor car or tractor or road roller, the unladen weight of any of which does not exceed 7500 kgs. as defined in section 2(48) of the Act, are also the light motor vehicle. No change has been made by Amendment Act of 54/94 in the provisions contained in sections 2(21) and 10(2)(d) relating to the light motor vehicle. The definition of 'light motor vehicle' has to be given full effect to and it has to be read with section 10(2)(d) which makes it abundantly clear that 'light motor vehicle' is also a 'transport vehicle', the gross vehicle weight or unladen weight of which does not exceed 7500 kgs. as specified in the provision. Thus, a driver is issued a licence as per the class of vehicle *i.e.* light motor vehicle, transport vehicle or omnibus or another vehicle of other categories as per gross vehicle weight or unladen weight as specified in section 2(21) of the Act. The provision of section 3 of the Act requires that a person in order to drive a 'transport vehicle' must have authorization. Once a licence is issued to drive light motor vehicle, it would also mean specific authorization to drive a transport vehicle or omnibus, the gross vehicle weight or motor car, road roller or tractor, the unladen weight of which, as the case may be, does not exceed 7500 kg. The insertion of 'transport vehicle' category in section 10(2)(e) has no effect of obliterating the already defined category of transport vehicles of the class of light motor vehicle. A distinction is made in the Act of heavy

goods vehicle, heavy passenger motor vehicle, medium goods vehicle and medium passenger motor vehicle on the basis of 'gross vehicle weight' or 'unladen weight' for heavy passenger motor vehicle, heavy goods vehicle, the weight, as the case may be, exceed 12000 kg. Medium goods vehicle shall mean any goods carriage other than a light motor vehicle or a heavy goods vehicle; whereas 'medium passenger motor vehicle' means any public service vehicle or private service vehicle or educational institution bus other than a motorcycle, invalid carriage, light motor vehicle or heavy passenger motor vehicle.

Thus, the newly incorporated expression 'transport vehicle' in section 10(2)(e) would include only the vehicles of the category as defined in section 2(16) - heavy goods vehicle, section 2(17) - heavy passenger motor vehicle, section 2(23) – medium goods vehicle and section 2(24) medium passenger motor vehicle, and would not include the 'light motor vehicle' which means transport vehicle also of the weight specified in Section 2(21).

15. Form 4 has led to some of the divergent views of this Court which was prevalent before 28.3.2001 prescribed under Rule 14 of the Central Motor Vehicles Rules, 1989 (hereinafter referred to as 'the Rules of 1989'). The relevant portion is extracted hereunder:

“FORM 4

[See Rule 14]

Form of application for licence to drive a motor vehicle

To,
The Licensing Authority,

.....

[passport
size photograph]

I apply for a licence to enable me to drive vehicles of the following description—

- (a) Motorcycle without gear
- (b) Motorcycle with gear
- (c) Invalid carriage
- (d) Light motor vehicle
- (e) Medium goods vehicle
- (f) Medium passenger motor vehicle
- (g) Heavy goods vehicle
- (h) Heavy passenger motor vehicle
- (i) Roadroller
- (j) Motor vehicle of the following description.

X	X	X
X	X	X
X	X	X

Certificate of test of competence to drive

The applicant has passed the test prescribed under Rule 15 of the Central Motor Vehicles Rules, 1989. The test was conducted on (here enter the

registration mark and description of the vehicle) on
(date).

The applicant has failed in the test.

(The details of deficiency to be listed out)

Date _____

Signature of testing Authority
Full name and designation

Two specimen signatures of applicant:

Strike out whichever is inapplicable.”

16. The aforesaid form was in vogue till 28.3.2001. In spite of the amendment made in the year 1994, deleting section 10(2) (e) to (h), the form in which application was required to be made was not changed and came to be changed only in the year 2001 so as to carry out the effect of the Amendment. The relevant extract of the amended Form, as amended on 28.3.2001, by which expression ‘transport vehicle’ had been inserted, is extracted hereunder:

“FORM 4

[See Rule 14(1)]

Form of application for licence to drive a motor vehicle

To,
The Licensing Authority,
.....

[passport
size photograph]

I apply for a licence to enable me to drive vehicles of the following description—

- (a) Motorcycle without gear
- (b) Motorcycle with gear
- (c) Invalid carriage
- (d) Light motor vehicle
- (e) Transport vehicle
- (f) Medium passenger motor vehicle

*

*

*

(i) Roadroller

(j) Motor vehicle of the following description.

X	X	X
X	X	X
X	X	X

Certificate of test of competence to drive

The applicant has passed the test prescribed under Rule 15 of the Central Motor Vehicles Rules, 1989. The test was conducted on (here enter the registration mark and description of the vehicle) on (date).

The applicant has failed in the test.

(The details of deficiency to be listed out)

Date _____

Signature of testing Authority
Full name & designation

Two specimen signatures of applicant:

- 1.
- 2.

Strike out whichever is inapplicable.”

Though Form 4 has undergone other changes with respect to Item (a) - motorcycle without gear, same is not relevant for our purpose. Form 4 makes it apparent that 'light motor vehicle' is a description of the kind of vehicle as defined in section 2(21). A transport vehicle of a light motor vehicle category is not at all excluded from the Form. Even otherwise the Form cannot control the substantive provisions carved out in section 10(2)(d) and 10(2)(e). The interpretation of the Form is also to be in tune with the Statement of Objects & Reasons and the provisions of the Act inserted by virtue of the Amendment. Though it appears that in the amended Form, 'medium passenger motor vehicle' remains, that appears to be more due to oversight. Thus, as intended, the simplification of the procedures and policy liberalization has taken place by introducing in the form category of 'transport vehicle' instead of medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle and heavy passenger motor vehicle. The policy of liberalization became necessary with an introduction of newer types of vehicles and fast increasing numbers of both personal and commercial vehicles in the country. In case it was intended to take transport vehicle out of the category of the light motor vehicle then it was necessary to amend section 2(21) and section 10(2)(d) also which has not been done. Thus, the intendment of

the Amendment has to be taken by addition of ‘transport vehicle’ of aforesaid categories of medium and heavy vehicles only so that a person is required to apply for licence, only once to drive aforesaid four kinds of vehicles as per the amended provision of section 10(2)(e) and the Form.

17. Our aforesaid conclusion is also fortified by the inclusion of Rule 8 of the 1989 Rules which provides for minimum educational qualification for driving transport vehicles to be 8th standard. The proviso to the rule makes it clear that the said qualification shall not apply in the case of renewal of driving licence to drive a transport vehicle and/or addition of another class of transport vehicle to the driving licence already obtained before commencement of the Motor Vehicles Act, 2007. Amended Rule 8 as inserted *w.e.f.* 10.4.2007 is quoted below:

“8. Minimum educational qualification for driving transport vehicles.—The minimum educational qualification in respect of an applicant for obtaining a licence to drive a transport vehicle shall be a pass in the eighth standard:

Provided that the minimum educational qualification specified in this Rule shall not apply in the case of—

- (i) renewal of a driving licence to drive a transport vehicle; or
- (ii) addition of another class of transport vehicle to the driving licence;

already held before the commencement of the Motor Vehicles (Amendment) Rules, 2007.”

The backdrop history indicates that earlier aforesaid Rule 8 existed. It was omitted on 28.10.1989. It had been re-inserted in 2007. Rule 8 contemplates the addition of transport vehicle of another category than the existing one in the licence. In 2007, the existing category of transport vehicle could be only of the light motor vehicle in section 10(2)(d) and another category of the transport vehicle to be added is only as in the amended provision 10(2)(e). Rule 8 refers to the addition of transport vehicle to light motor vehicle category, otherwise no purpose would be left behind insertion of Rule 8 again in the year 2007, in case transport vehicles of all categories are read into section 10(2)(e), Rule 8 also unambiguously lends support to the legislative intent behind section 10(2)(e). Any other interpretation would make it a redundant rule. An exercise in futility is not undertaken by legislation.

18. Driving licence is issued in Form 6 as provided in Rule 16 of the Rules of 1989. Form 6 is extracted hereunder:

“FORM 6

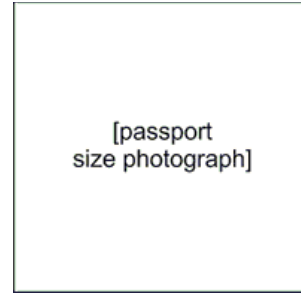
[See Rule 16(1)]

(To be printed in book form of the size six centimeters by eight centimeters)

Form of Driving Licence

Name of the licence holder

Son/Wife/Daughter of



Name to be written across the photograph
 (Part of the seal and signature of the
 Licensing Authority to be on the photograph
 and part on the driving licence)

Specimen signature/
 thumb impression of
 the holder of the
 licence

Signature and
 designation of the
 Licensing Authority.

Driving licence number
 Date of issue
 Name
 Son/Wife/Daughter of
 Temporary address/official address (if any)
 Permanent address
 Date of birth
 Educational qualifications
 Optional Blood group
 Rh factor

The holder of this licence is licensed to drive throughout India
 vehicles of the following description—

Motorcycle without gear

Motorcycle with gear

Invalid carriage

Light motor vehicle

Transport vehicle

Medium passenger motor vehicle

A motor vehicle of the following description:

The licence to drive a motor vehicle other than transport vehicle is valid from to
 The licence to drive transport vehicle is valid from to

Name and designation of the

Signature and designation of

Authority who conducted the
driving test.

Licensing Authority

Authorisation to drive transport
vehicle Number

Date

Authorised to drive transport vehicle
with effect from

Badge Number

Signature

Designation of the Licensing Authority.

Name and designation of the authority
who conducted the driving test.

Space for addition of other classes of vehicles

Number Date

Also authorised to drive the following class of or description of
motor vehicles—

Name and designation of the Authority
who conducted the driving test.

Signature and

designation of Licensing Authority.

Date:

Space for renewal of driving licence.

The licence to drive motor vehicles other than transport vehicles is hereby renewed. The licence to drive transport vehicles is hereby renewed

From to From.....to.....
Signature of Licensing Authority. Signature of Licensing Auth.

From to From.....to.....
Signature of Licensing Authority. Signature of Licensing Auth.

Signature of Licensing Authority.

Space for endorsement by Court

Date Section and Rule Fine or other Sign of the

punishment			Endorsing Authority
1	2	3	4

Space for endorsement by Licensing Authority.

Date	Proceedings number and date	Disqualification Period	Sign. of the Licencing Authority
1	2	3	4 "

19. Form 6 provides for 'light motor vehicle' and 'transport vehicle' separately. Though the form contains separate validity period for a motor vehicle other than transport vehicles, the aforesaid form and period of validity have to be understood in the light of the aforesaid discussion made by us of the light motor vehicle and transport vehicle. The form cannot govern the interpretation of the provision of Sections 10(2)(d) and 10(2)(e) otherwise also form has to be interpreted harmoniously with the Act and cannot be in conflict with the statutory provisions. The provision of the Light motor vehicle has to be given full effect and it is enjoined upon the authorities to issue the licence in terms of the discussion made by us in the order and validity period has to be construed accordingly. The validity period of transport vehicle of light motor vehicle licence which means the vehicle as defined in section 2(21), has to be the same as that of other light motor vehicle of non-transport category and there cannot be any distinction made with respect to the validity period of the

class of light motor vehicle. The separate prescription for the validity of transport vehicle in Form 6 is only to take care of the provisions inserted in section 10(2)(e) by deleting the provisions of Section 10(2)(e) to (h). It would apply to those categories.

20. Rule 17 of the Rules of 1989 provides for the addition to driving licence. The application has to be filed for addition in driving licence in Form 8 as provided in Rule 17. Rule 17 and Form 8 are extracted hereunder:

“17. Addition to driving licence.—(1) An application for addition of another class or description of motor vehicle to the driving licence shall be made in Form 8 to the licensing authority and shall be accompanied from—

(a) an effective learner’s licence and driving licence held by the applicant;

(b) in the case of an application for addition of a transport vehicle, the driving certificate in Form 5;

(c) * * *

(d) appropriate fee as specified in Rule 32.

(2) The provisions of sub-section (1), sub-section (3) and sub-section (4) of Section 9 shall, insofar as may be, apply in relation to an application under sub-rule (1) as they apply in relation to an application for the grant of a driving licence.”

“FORM 8

[See Rule 17(1)]

Application for the addition of a new class of vehicle to a driving licence

To,

The Licensing Authority,
.....

I, Shri/Smt/Kumari hereby apply for the addition of the following class/classes of motor vehicle to the attached licence—

- (a) Motorcycle without gear,
- (b) Motorcycle with gear,
- (c) Invalid carriages,
- (d) Light motor vehicles,
- (e) Transport vehicle,
- (f) Medium passenger motor vehicles,
- (g)-(h) * * *
- (i) Road rollers,
- (j) Motor vehicles of the following description.

I enclose,

- (a) a Medical Certificate in Form 1-A,
- (b) Learner's licence in Form 3,
- (c) Driving licence in Form 6/7,

I hereby apply for the addition of the following:

- (d) Driving certificate in Form 5 if the application is to drive a transport vehicle,
- (e) I have paid the fee of Rs.....

Dated:

Signature or thumb impression
of the applicant

Certificate of test of competence to drive

The applicant has passed/failed in the test specified in Rule 15 of the Central Motor Vehicles Rules, 1989. The test was conducted on a
(here Enter description of vehicle) on date

Signature of testing authority
Name and designation"

It is apparent that an application has to be made for the addition of another class of vehicle. Light motor vehicle and transport vehicle are separately defined. Thus, it is clear that in the aforesaid Forms 4, 6 and 8, transport vehicle has to be understood for the categories of vehicles for which provision has been amended by section 10(2)(e).

21. The trade certificate has been dealt with in Rule 34. Rules 34 (2) provides that separate application shall be made for the classes of vehicles prescribed therein. Rule 34 is extracted hereunder:

“**34. Trade certificate.**—(1) An application for the grant or renewal of a trade certificate shall be made in Form 16 and shall be accompanied by appropriate fee as specified in Rule 81.

(2) Separate application shall be made for each of the following classes of vehicles, namely—

- (a) motorcycle;
- (b) invalid carriage;
- (c) light motor vehicle;
- (d) medium passenger motor vehicle;
- (e) medium goods vehicle;
- (f) heavy passenger motor vehicle;
- (g) heavy goods vehicle;
- (h) any other motor vehicle of a specified description.”

The aforesaid rule also makes a distinction between light motor vehicle, medium passenger motor vehicle, medium goods vehicle, heavy passenger motor vehicle and heavy goods vehicles. For all types of vehicles, it is necessary that prototype of every motor vehicle qualify a test by the Vehicle Research & Development Establishment of the Ministry of Defence of the Government of India or Automotive Research Association of India as provided in Rule 126. The vehicles must conform to the provisions of the Rules made under section 110 of the Act. The relevant information has to be inserted as per section 41 of the Act in the registration particulars as may be prescribed by the Central Government

i.e. class of vehicle, gross vehicle weight, as well as unladen weight, are required to be mentioned in the registration particulars in Form 20.

22. The interpretation made by us is also supported by the syllabus which is prescribed for light vehicles and separately for medium and heavy vehicles driving practice. Rule 31 of the Rules contains the syllabus for imparting instructions in the driving of motor vehicles in schools or establishments. The syllabus is divided into Parts A to K thus:

“36. Rule 31 of the Rules contains a syllabus for imparting instructions in the driving of motor vehicles in schools or establishments. That syllabus is divided in Parts A to K.

Part A deals with driving theory-1.
 B- Traffic education-I.
 C- Light vehicles driving practice.
 D- Vehicle mechanism and repairs.
 E- Medium and heavy vehicle driving.
 F- Traffic education-II.
 G- Public relations for drivers.
 H- Heavy vehicle driving practice.
 I- Fire hazards.
 J- Vehicle maintenance.
 K- First-aid.”

It is apparent from the aforesaid syllabus that no separate syllabus has been provided for transport vehicles. Transport vehicles have been included in the syllabus as per the class of vehicles, that is to say, syllabus of the light motor vehicle would include the syllabus of transport vehicles of that class. The syllabus has been formulated as per the weight of the vehicles.

23. The State Government has to maintain a register of motor vehicles under Rule 75 as provided in Form 41 which includes gross vehicle weight, unladen weight etc. The Central Government has the power to frame rules under Section 27, inter alia, regarding minimum qualification, forms, and contents of the licences etc. Thus, we are of the considered opinion that the definition of 'light motor vehicle' under Section 2(21) of the Act includes transport vehicle of the class and weight defined therein. The transport vehicle or omnibus would be light motor vehicle, gross vehicle weight of which, and also a motor car or tractor or road roller, unladen weight of, which, does not exceed 7500 kg., and can be driven by holder of licence to drive light motor vehicle and no separate endorsement is required to drive such transport vehicle.

24. It is a settled proposition of law that while interpreting a legislative provision, the intention of the Legislature, motive and the philosophy of the relevant provisions, the goals to be achieved by enacting the same, have to be taken into consideration.

25. In *Principles of Statutory Interpretation by Justice G.P. Singh*, it has been observed that a statute is an edict of a legislature and the conventional way of interpreting or construing a statute is to seek the intention of its maker. The duty of the judicature is to act upon the true intention of the legislature – *men's* or *sentential logic*. If a statutory

provision is open to more than one interpretation, the Court has to choose that interpretation which furthers the intention of the legislature as laid down in *Venkataswamy Naidu R. v. Narasram Naraindas* AIR 1966 SC 361 and *District Mining Officer vs. Tata Iron and Steel Co.* AIR 2001 (7) SCC 358. Lord Cranworth L.C. in *Jane Straford Boyse v. John T. Rossborough* 10 ER 1192 (HL) has observed: "There is no possibility of mistaking midnight for noon, but at what precise moment Twilight becomes darkness is hard to determine." As observed in *Murray v. Foyle Meats Ltd.* (1999) 3 All ER 769, faced with such problems, the Court is also conscious of a dividing line, but Court has to be conscious not to divert its attention from the language used in the statutory provision and encourage an approach not intended by the legislature. The first and primary rule of construction is that the intention of the legislature must be found in the words used by Legislature itself, as held in *Kannai Lal Sur v. Paramnidhi Sadhukhan* AIR 1967 SC 907. Each word, phrase or sentence is to be construed in the light of the general purpose of the Act itself as held in *Poppatlal Shah v. State of Madras* AIR 1953 SC 274, *Girdharilal & Sons v. Balbir Nath Mathur* (1986) 2 SCC 237 and *Atma Ram Mittal v. Ishwar Singh Punia* (1988) 4 SCC 284.

26. It was held in *Reserve Bank of India v. Pearless General Finance and Investment Co.* (1987) 1 SCC 424 that interpretation must depend on

the text and the context. They are the bases of interpretation. One may well say that if the text is the texture, context is what gives colour. Neither of them can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. In *Atmaram Mittal v. Ishwar Singh Punia* (1998) 4 SCC 284 the Court has referred to “Blackstone Commentaries on the Laws of England”, and it has been observed that the fairest and rational method for interpreting a statute is by exploring the intention of the legislature through the most natural and probable signs which are ‘either the words, the context, the subject matter, the effects and consequence, and the facts and reasons of law’. The correct interpretation is one that best harmonises the words with the object of the statute. A right construction of the Act can only be attained if the whole object and scope together with circumstances in which it is enacted are taken into consideration. Lord Porter in *Bhagwan Baksh Singh (Raja) v. Secretary of State*, AIR 1940 PC 82 has further referred that the statute has to be read as a whole in its context. So as to arrive at the meaning of a certain provision in a statute, it is not only legitimate but proper to read that provision in its context. The context here means the statute as a whole, the previous state of law, other statutes in *pari materia*, the general scope of the statute and the

mischief that was intended to remedy as observed in *R.S. Raghunath v. State of Karnataka*, 1992 (1) SCC 335, *Powdrill v. Watson* (1995) 2 All ER 65, *R. v. Secretary of State for the Home Department, Ex-parte Daly*, (2001) 3 All ER 433 and a decision of the Constitution Bench of this Court in *Union of India v. Elphinstone Spinning and Weaving Co. Ltd. & Ors.* (2001) 4 SCC 139. To ascertain the meaning of a clause, the Court must look at the whole statute at what precedes and at what succeeds and not merely at the clause itself as observed in *Queen v. Eduljee Byramjee*, (1946) 3 MIA 468 and *National Insurance Co. Ltd. v. Anjana Shyam & Ors.* (2007) 7 SCC 445. It was also observed that the same word by the author may mean one thing in one context and another in a different context. For this reason, the same word used in different sections of a statute or even when used at different places in the same clause or section of the statute may bear different meanings. The conclusion, that the language used by the legislature is plain or ambiguous can only be arrived at by studying the statute as a whole. Every word and expression which the legislature uses have to be given its proper and effective meaning, as the Legislature uses no expression without purpose and meaning. The principle that the statute must be read as a whole is equally applicable to different parts of the same section. The section must be construed as a whole whether or not one of the parts is a saving clause or a proviso. It is not permissible

to omit any part of it, the whole section should be read together as held in *The State of Bihar v. Hira Lal Kejriwal & Anr.*, AIR 1960 SC 47.

27. The author has further observed that the courts strongly lean against a construction which reduces the statutes to a futility as held in *M. Pentiah & Ors. v. Muddala Veeramallappa* AIR 1961 SC 1107 and *Tinsukhia Electric Supply Co. Ltd. v. State of Assam & Ors.* (1989) 3 SCC 709. When the words of a statute are clear or unambiguous *i.e.* they are reasonably susceptible to only one meaning, the courts are bound to give effect to that meaning irrespective of the consequences as held in *Nelson Motis v. Union of India & Anr.* (1992) 4 SCC 711, *Gurudevdatla VKSSS Maryadit & Ors. v. State of Maharashtra & Ors.*, (2001) 4 SCC 534 and *Nathi Devi v. Radha Devi Gupta* (2005) 2 SCC 271. It is also a settled proposition of law that when the language is plain and unambiguous and admits of only one meaning no question of construction of a statute arises for the Act speaks for itself as held in *State of Uttar Pradesh v. Vijay Anand Maharaj* AIR 1963 SC 946.

28. In *Crawford v. Spooner* (1846) 6 Moo. PC 1 which has been referred to in *Nalinakhya Bysack v. Shyam Sunder Haldar & Ors.*, AIR 1953 SC 148 it has been held that “the Court cannot aid the Legislature’s defective phrasing of an Act or add and amend or, by construction, make up deficiencies which are left in the Act.” In *British India General*

Insurance Co. Ltd. v. Captain Itbar Singh & Ors., AIR 1959 SC 1331 while construing section 96(2) of the Motor Vehicles Act, 1939, this Court refused to add the word 'also' after the words 'on any of the following grounds'. It was observed that the rule of interpretation does not permit the Court to do unless the section, as it stands, is meaningless or is of doubtful meaning. While interpreting Section 621-A(1) of Companies Act, 1956 in *VLS Finance Ltd. v. Union of India* (2013) 6 SCC 278 this Court held that the Court must avoid rejection or addition of words and resort to that only in exceptional circumstances.

29. The words cannot be read into an Act, unless the clear reason for it is to be found within the four corners of the Act itself. It is one of the principles of statutory interpretation that may matter which should have been, but has not been provided for in a statute, cannot be supplied by courts, as to do so will be legislation and not construction as held in *Hansraj Gupta v. Dehra Dun-Mussoorie Electric Tramway Co. Ltd.* AIR 1933 PC 63, *Kamalrajan Roy v. Secretary of State* AIR 1938 PC 281 and *Karnataka State Financial Corporation v. N. Narsimahaiah* (2008) 5 SCC 176. The court cannot supply *casus omissus*.

30. From the aforesaid principles, it is apparent that plain and simple meaning has to be given to section 10(2). When the legislature has not amended the provision, we cannot re-write the definition of section 2(21)

of light motor vehicle and section 10(2)(d) and full effect has to be given to the omission which has been made in the provisions of section 10(2)(e) to (h), by substituting transport vehicle under section 10(2)(e), and plain and literal interpretation of existing provisions and amended provisions has to be made. When the legislature has not amended the aforesaid provisions it is not for the Court to legislate by making insertion in section 10(2)(e). What has not been provided in the statute with a purpose, cannot be supplied by the courts. Court has to construe a provision and not to act as a legislature. In other words, interpretation as suggested by Insurers would mean rewriting of the provision, which is not permissible in the light of the aforesaid discussion.

31. In *Skandia Insurance Co. Ltd. v. Kokilaben Chandravandan* (1987) 2 SCC 654, this Court has laid down that the motive and philosophy of a provision should be probed, keeping in mind the goals to be achieved by enacting the same, and the defense built upon an exclusion clause by insurer cannot succeed because on a true interpretation of the relevant clause which interpretation is at peace with section 96 of the Motor Vehicles Act, the condition excluding driving by a person not duly licensed is not absolute. The promisor is exculpated when he does everything in his power to keep promise. The Court has laid down thus :

“12. The defence built on the exclusion clause cannot succeed for three reasons, viz.:

(1) On a true interpretation of the relevant Clause which interpretation is at peace with the conscience of Section 96, the condition excluding driving by a person not duly licensed is not absolute and the promisor is absolved once it is shown that he has done everything in his power to keep, honour and fulfil the promise and he himself is not guilty of a deliberate breach.

(2) Even if it is treated as an absolute promise, there is substantial compliance therewith upon an express or implied mandate being given to the licensed driver not to allow the vehicle to be left unattended so that it happens to be driven by an unlicensed driver.

(3) The exclusion Clause has to be "read down" in order that it is not at war with the "main purpose" of the provisions enacted for the protection of victims of accidents so that the promisor is exculpated when he does everything in his power to keep the promise.

13. In order to divine the intention of the legislature in the course of interpretation of the relevant provisions there can scarcely be a better test than that of probing into the motive and philosophy of the relevant provisions keeping in mind the goals to be achieved by enacting the same. Ordinarily it is not the concern of the legislature whether the owner of the vehicle insures his vehicle or not. If the vehicle is not insured any legal liability arising on account of third party risk will have to be borne by the owner of the vehicle. Why then has the legislature insisted on a person using a motor vehicle in a public place to insure against third-party risk by enacting Section 94? Surely the obligation has not been imposed in order to promote the business of the insurers engaged in the business of automobile insurance. The provision has been inserted in order to protect the members of the community travelling in vehicles or using the roads from the risk attendant upon the user of motor vehicles on the roads. The law may provide for compensation to victims of the accidents who sustain injuries in the course of an automobile accident or compensation to the dependants of the victims in the case of a fatal accident. However, such protection would remain a protection on paper unless there is a guarantee that the compensation awarded by the courts would be recoverable from the persons held liable for the consequences of the accident. A court can only pass an award or a decree. It cannot ensure that such an award or decree results in

the amount awarded being actually recovered, from the person held liable who may not have the resources. The exercise undertaken by the law courts would then be an exercise in futility. And the outcome of the legal proceedings which by the very nature of things involve the time cost and money cost invested from the scarce resources of the community would make a mockery of the injured victims, or the dependants of the deceased victim of the accident, who themselves are obliged to incur not inconsiderable expenditure of time, money and energy in litigation. To overcome this ugly situation the legislature has made it obligatory that no motor vehicle shall be used unless a third party insurance is in force. To use the vehicle without the requisite third party insurance being in force is a penal offence (Section 94 of the Motor Vehicles Act). The legislature was also faced with another problem. The insurance policy might provide for liability walled in by conditions which may be specified in the contract of policy. In order to make the protection real, the Legislature has also provided that the judgment obtained shall not be defeated by the incorporation of exclusion clauses other than those authorised by Section 96 and by providing that except and save to the extent permitted by Section 96 it will be the obligation of the insurance Co. to satisfy the judgment obtained against the persons insured against third party risk (vide Section 96). In other words, the legislature has insisted and made it incumbent on the user of a motor vehicle to be armed with an insurance policy covering third party risks which is in conformity with the provisions enacted by the legislature. It is so provided in order to ensure that the injured victims of automobile accidents or the dependants of the victims of fatal accidents are really compensated in terms of money and not in terms of promise. Such a benign provision enacted by the legislature having regard to the fact that in the modern age the use of motor vehicles notwithstanding the attendant hazards, has become an inescapable fact of life, has to be interpreted in a meaningful manner which serves rather than defeats the purpose of the legislation. The provision has therefore to be interpreted in the twilight of the aforesaid perspective.

14. Section 96(2)(b)(ii) extends immunity to the Insurance Co. if a breach is committed of the condition excluding driving by a named person or persons or by any person who is not fully licensed, or by any person who has been disqualified from holding or obtaining a driving licence during the period of disqualification. The expression "breach" is of great significance. The dictionary meaning of "breach" is "infringement or violation of a promise or obligation" (See Collins English Dictionary). It is therefore abundantly clear that the insurer will have to establish that the insured is guilty of an infringement or violation of a promise that a

person who is duly licensed will have to be in charge of the vehicle. The very concept of infringement or violation of the promise that the expression "breach" carries within itself induces an inference that the violation or infringement on the part of the promisor must be a wilful infringement or violation. If the insured is not at all at fault and has not done anything he should not have done or is not amiss in any respect how can it be conscientiously posited that he has committed a breach? It is only when the insured himself places the vehicle in charge of a person who does not hold a driving licence, that it can be said that he is "guilty" of the breach of the promise that the vehicle will be driven by a licensed driver. It must be established by the Insurance Co. that the breach was on the part of the insured and that it was the insured who was guilty of violating the promise or infringement of the contract. Unless the insured is at fault and is guilty of a breach the insurer cannot escape from the obligation to indemnify the insured and successfully contend that he is exonerated having regard to the fact that the promisor (the insured) committed a breach of his promise. Not when some mishap occurs by some mischance. When the insured has done everything within his power inasmuch as he has engaged a licensed driver and has placed the vehicle in charge of a licensed driver, with the express or implied mandate to drive himself it cannot be said that the insured is guilty of any breach. And it is only in case of a breach or a violation of the promise on the part of the insured that the insurer can hide under the umbrella of the exclusion clause. In a way the question is as to whether the promise made by the insured is an absolute promise or whether he is exculpated on the basis of some legal doctrine. The discussion made in para 239 of *Breach of Contract* by Carter (1984 Edn.) under the head Proof of Breach, gives an inkling of this dimension of the matter. In the present case even if the promise were to be treated as an absolute promise the grounds for exculpation can be found from Section 84 of the Act which reads thus:

‘84. Stationary vehicles. – No person driving or in charge of a motor vehicle shall cause or allow the vehicle to remain stationary in any public place, unless there is in the driver's seat a person duly licensed to drive the vehicle or unless the mechanism has been stopped and a brake or brakes applied or such other measure taken as to ensure that the vehicle cannot accidentally be put in motion in the absence of the driver.’

In view of this provision apart from the implied mandate to the licensed driver not to place an unlicensed person in charge of the vehicle, there is also a statutory obligation on the said person not to leave the vehicle unattended and not to place it in charge of an

unlicensed driver. What is prohibited by law must be treated as a mandate to the employee and should be considered sufficient in the eye of law for excusing non-compliance with the conditions. It cannot, therefore, in any case, be considered as a breach on the part of the insured. To construe the provision differently would be to rewrite the provision by engrafting a rider to the effect that in the event of the motor vehicle happening to be driven by an unlicensed person, regardless of the circumstances in which such a contingency occurs, the insured will not be liable under the contract of insurance. It needs to be emphasised that it is not the contract of insurance which is being interpreted. It is the statutory provision defining the conditions of exemption which is being interpreted. These must, therefore, be interpreted in the spirit in which the same have been enacted accompanied by an anxiety to ensure that the protection is not nullified by the backward looking interpretation which serves to defeat the provision rather than to fulfill its life-aim. To do otherwise would amount to nullifying the benevolent provision by reading it with a non-benevolent eye and with a mind not tuned to the purpose and philosophy of the legislation without being informed of the true goals sought to be achieved. What the legislature has given, the Court cannot deprive of by way of an exercise in interpretation when the view which renders the provision potent is equally plausible as the one which renders the provision impotent. In fact, it appears that the former view is more plausible apart from the fact that it is more desirable. When the option is between opting for a view which will relieve the distress and misery of the victims of accidents or their dependants on the one hand and the equally plausible view which will reduce the profitability of the insurer in regard to the occupational hazard undertaken by him by way of business activity, there is hardly any choice. The Court cannot but opt for the former view. Even if one were to make a strictly doctrinaire approach, the very same conclusion would emerge in obeisance to the doctrine of "reading down" the exclusion Clause in the light of the "main purpose" of the provision so that the "exclusion clause" does not cross swords with the "main purpose" highlighted earlier. The effort must be to harmonize the two instead of allowing the exclusion Clause to snipe successfully at the main purpose. This theory which needs no support is supported by *Carter's "Breach of Contract"* vide paragraph 251. To quote:

‘Notwithstanding the general ability of contracting parties to agree to exclusion clauses which operate to define obligations there exists a rule, usually referred to as the "main purpose rule", which may limit the application of wide exclusion clauses defining a promisor's contractual

obligations. For example, in *Glynn v. Margetson & Co.* (1893 AC 351, 357, Lord Halsbury, L.C. stated:

“It seems to me that in construing this document, which is a contract of carriage between the parties, one must in the first instance look at the whole instrument and not at one part of it only. Looking at the whole instrument, and seeing what one must regard... as its main purpose, one must reject words, indeed whole provisions, if they are inconsistent with what one assumes to be the main purpose of the contract.” ’

Although this Rule played a role in the development of the doctrine of fundamental breach, the continued validity of the Rule was acknowledged when the doctrine was rejected by the House of Lords in *Suisse Atlantique Societe d' Armement Maritime S.A. v. N.V. Rotterdamsche Kolen Centrale* (1967) 1 AC 361, 393, 412-413, 427-428, 430. *Accordingly, wide exclusion clauses will be read down to the extent to which they are inconsistent with the main purpose, or object of the contract.”* **(emphasis in original)**

32. The aforesaid decision has been approved by this Court in *Sohan Lal Passi v. P. Sesh Reddy & Ors.* (1996) 5 SCC 21. It has been laid down that the insurer has also to satisfy the tribunal or the court that such violation or infringement on the part of the insured was wilful. If the insured has taken all precautions by appointing a duly licensed driver to drive the vehicle in question and it had not been established that it was the insured who allowed the vehicle to be driven by a person not duly licensed, then the insurance company cannot repudiate its statutory liability. In *National Insurance Co. Ltd. v. Swaran Singh & Ors.* (2004) 3 SCC 297, this Court has laid down that to avoid its liability towards the insured, the insurer has to prove that the former was guilty of negligence

and failed to exercise reasonable care in the matter of fulfilling the condition of the policy regarding use of vehicles by duly licensed driver or by one who was not qualified to drive at the relevant time. The insurer must prove that the breach was on the part of the owner of the vehicle and burden to prove would be on them. The tribunals in interpreting the policy conditions would apply “the rule of the main purpose” and the concept of “fundamental breach” to allow defences available to the insured under section 149(2) of the Act. Whether the owner has taken reasonable care, has to be found out in each case. *Swaran Singh* (supra) had been referred to in *Oriental Insurance Co. Ltd. v. Zaharulnisha* (2008) 12 SCC 385 and it has been observed that if a person who has been given a licence for a particular type of vehicle, he cannot be said to have no licence for driving another type of vehicle which is of the same category but of a different type. As for example, when a person is granted a licence to drive a light motor vehicle, he can drive either a car or a jeep and it is not necessary that he must have driving licence both for car and jeep separately. In *Zaharulnisha case* (supra), this Court has laid down thus:

“18. A three-Judge Bench of this Court in *National Insurance Co. Ltd. v. Swaran Singh* (2004) 3 SCC 297 has extensively dealt with the meaning, application and interpretation of various provisions, including Sections 3(2), 4(3), 10(2) and 149 of the MV Act. In para 47 of the judgment, the learned Judges have 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. As for example, when a person is granted a licence for driving a light motor vehicle he can drive either a car or a jeep and it is not necessary that he must have driving licence both for car and jeep separately....”

However as the scooterist was possessing a driving licence to drive heavy motor vehicle, and he was driving a different class of vehicle, it was held to be in violation of section 10(2) of the Act, as the scooterist had no driving licence to drive a scooter.

33. It is apparent from the aforesaid decisions, that the court has to interpret a provision so as to give it full effect it intends and the motivated philosophy of the relevant provision cannot be ignored or overlooked. The object of the Amendment Act, itself makes it clear that it had been made in order to simplify the procedures faced with the situation of increase in different kinds of vehicles. It nowhere intended to invalidate the licence held before the Amendment had been made.

34. Coming to conflicting decisions of this Court entailing reference in *Ashok Gangadhar Maratha* (supra), this Court has considered the definition of 'light motor vehicle' and held thus:

“10. The definition of “light motor vehicle” as given in clause (21) of Section 2 of the Act can apply only to a “light goods vehicle” or a “light transport vehicle”. A “light motor vehicle” otherwise has to be covered by the definition of “motor vehicle” or “vehicle” as given in clause (28) of Section 2 of the Act. A light

motor vehicle cannot always mean a light goods carriage. Light motor vehicle can be a non-transport vehicle as well.”

No doubt about it, that in addition thereto the Court while dealing with the matter comprehensively has gone in question as to the pleadings and the evidence adduced and it was observed that since there was neither a pleading nor a permit produced on record, the vehicle remained a light motor vehicle. If we proceed on the basis of the definition itself, we reach to the same conclusion that for driving transport vehicle of light motor vehicle category, no separate endorsement is required on a licence. Even when a light motor vehicle is used for carrying goods or for hire or rewards, it becomes a transport vehicle, though it remains included in the category of light motor vehicle as per Section 2(21) of the Act. The interpretation of the definition in *Ashok Gangadhar Maratha* (supra), makes it clear that light motor vehicle cannot always be a light goods carriage. It can be a non-transport vehicle as well. The definition of a light motor vehicle includes light goods vehicle and light transport vehicle also. The interpretation of the definition of light motor vehicle in aforesaid extracted para 10 is sound and we are in unison with the same. It was not necessary for the Court to go into the question of pleadings and evidence in *Ashok Gangadhar Maratha* (supra).

35. In *Prabhu Lal* (supra), this Court has taken a contrary view and held that when a driver was holding the valid licence to ply only light motor vehicle, and no endorsement was made on the licence enabling him to drive a transport vehicle, it was held to be a breach by the owner and he could not claim any indemnification from the insurer. It was held that the goods carrier would be a transport vehicle. The accident took place on 17.4.1998. The District Forum held that the goods carrier was a transport vehicle whereas the State Commission held that it was a light motor vehicle relying on the gross weight of the vehicle. This Court set aside the order of the Commission and affirmed the finding of the District Forum. In *Prabhu Lal* (supra), this Court has considered *Ashok Gangadhar Maratha* (supra) and laid down thus:

“38. We find considerable force in the submission of the learned counsel for the Insurance Company. We also find that the District Forum considered the question in its proper perspective and held that the vehicle driven by Ram Narain was covered by the category of transport vehicle under clause (47) of Section 2 of the Act. Section 3, therefore, required the driver to have an endorsement which would entitle him to ply such vehicle. It is not even the case of the complainant that there was such endorsement and Ram Narain was allowed to ply transport vehicle. On the contrary, the case of the complainant was that it was Mohd. Julfikar who was driving the vehicle. To us, therefore, the District Forum was right in holding that Ram Narain could not have driven the vehicle in question.

39. The learned counsel for the complainant, however, heavily relied upon *Ashok Gangadhar*. In that case, the appellant was the owner of a truck, light motor vehicle, which was insured with the respondent Insurance Company. The vehicle met with an

accident and a claim was lodged by the complainant before the Consumer Commission. It was contended by the Insurance Company that the truck was a goods carriage or a transport vehicle and since the driver of the truck was holding a driving licence issued in Form 6 to drive light motor vehicle only, he was not authorised to drive transport vehicle as there was no endorsement on his driving licence authorising him to drive such transport vehicle. The aggrieved complainant approached this Court. Allowing the appeal and setting aside the order passed by the Commission, this Court held that the driver of the vehicle was holding a valid driving licence for driving a light motor vehicle and there was no material on record to show that he was disqualified from holding an effective valid licence at the time of an accident. In view of those facts, the Court held that the policy did not insist on the driver to have a licence to drive a transport vehicle by obtaining a specific endorsement. Considering the definition of "light motor vehicle" as given in clause (21) of Section 2 of the Act, this Court held that such light motor vehicle (LMV) cannot always mean a light goods carriage. A light motor vehicle (LMV) can be a non-transport vehicle as well. The Court proceeded to observe that since there was neither a pleading nor a permit produced on record, the vehicle remained as a light motor vehicle. And though it can be said to have been designed to be used as a transport vehicle or a goods carriage, it could not be so held on account of the statutory prohibition contained in Section 66 of the Act to be a transport vehicle. It was, therefore, held that the Commission was not right in rejecting the claim of the claimant. Accordingly, this Court set aside the order passed by the Commission and directed the Insurance Company to pay compensation to the complainant.

40. It is no doubt true that in Ashok Gangadhar in spite of the fact that the driver was holding valid driving licence to ply light motor vehicle (LMV), this Court upheld the claim and ordered the Insurance Company to pay compensation. But, in our considered opinion, the learned counsel for the Insurance Company is right in submitting that it was because of the fact that there was neither pleading nor proof as regards the permit issued by the Transport Authority. In absence of pleading and proof, this Court held that it could not be said that the driver had no valid licence to ply the vehicle which met with an accident and he could not be deprived of the compensation. This is clear if one reads para 11 of the judgment, which reads thus: (SCC p. 626)

11. To reiterate, since a vehicle cannot be used as a transport vehicle on a public road unless there is a permit issued by the Regional Transport Authority for that purpose

and since in the instant case there is neither a pleading to that effect by any party nor is there any permit on record, the vehicle in question would remain a light motor vehicle. The respondent also does not say that any permit was granted to the appellant for plying the vehicle as a transport vehicle under Section 66 of the Act. Moreover, on the date of the accident, the vehicle was not carrying any goods and though it could be said to have been designed to be used as a transport vehicle or a goods carrier, it cannot be so held on account of the statutory prohibition contained in Section 66 of the Act.’

(emphasis supplied)

41. In our judgment, Ashok Gangadhar did not lay down that the driver holding licence to drive a light motor vehicle need not have an endorsement to drive transport vehicle and yet he can drive such vehicle. It was on the peculiar facts of the case, as the Insurance Company neither pleaded nor proved that the vehicle was transport vehicle by placing on record the permit issued by the Transport Authority that the Insurance Company was held liable.

42. In the present case, all the facts were before the District Forum. It considered the assertion of the complainant and defence of the Insurance Company in the light of the relevant documentary evidence and held that it was established that the vehicle which met with an accident was a “transport vehicle”. Ram Narain was having a licence to drive light motor vehicle only and there was no endorsement as required by Section 3 of the Act read with Rule 16 of the Rules and Form 6. In view of necessary documents on record, the Insurance Company was right in submitting that Ashok Gangadhar does not apply to the case on hand and the Insurance Company was not liable.”

36. In our considered opinion *Prabhu Lal’s* (supra) question has not decided correctly. The intendment and definition of the light motor vehicle which was clearly interpreted in *Ashok Gangadhar Maratha* (supra) in para 10 have not been taken into consideration in the correct perspective. Interpretation of Form 6 was also not correctly made. Even assuming that *Ashok Gangadhar Maratha* (supra) did not lay down that

the driver holding licence to drive a light motor vehicle need not have an endorsement to drive a transport vehicle, but what emerges from the aforesaid discussion made by us it is clear that there is no necessity of such an endorsement for driving a transport vehicle of the category of light motor vehicle, which is not statutorily enjoined or provided for. The intendment of section 3 has also not been correctly appreciated. It has to be read along with Section 10(2)(d) and (e) and those classes of vehicles which are included in a category 10(2) (a) to (j) can be driven by a person without any further specific endorsement to drive a particular vehicle. Thus, the decision in *Prabhu Lal* (supra) does not lay down correct proposition of law and is hereby overruled.

37. In *New India Assurance Company Ltd. v. Roshanben Rahemansha Fakir & Anr.* (2008) 8 SCC 253 the driver was the holder of a licence to drive a three-wheeler. This Court noted that the licence was not meant to be used to drive a transport vehicle. The vehicle involved was an autorickshaw delivery van and was a goods carrier. It was contended that the driver was not the holder of a legal and valid licence. This Court came to the conclusion that since the licence was issued or renewed for a period of 20 years from the date of issuance or renewal, the driver was not holding the licence to drive a transport vehicle as transport licence is not issued for such duration. The decision in the aforesaid case also

cannot hold the field in the light of the law discussed in the instant matters and as the driver driving such a vehicle *i.e.* three-wheeler was holding the licence to drive a light motor vehicle, the restricted duration of renewal would not be applicable to the light transport vehicle. The discussion to the contrary in *Roshan Lal* (supra) cannot hold the field.

38. In *Annappa Irappa Nesaria* (supra), a Division Bench of this Court has considered the question with respect to an accident which took place on 9.12.1999. The driver was driving a Matador van, a “goods carriage” vehicle, holding a licence to drive light motor vehicle. This Court referred to Forms 4 and 6 and Rules 14 and 16 of the Rules of 1989 and opined that as Form 4 has been amended w.e.f. 28.3.2001, transport vehicle has been substituted for medium goods vehicle and heavy goods vehicle and provision in the form at the relevant time, covered both “light passenger carriage vehicle” and “light goods carriage vehicle”. The driver who had a valid driving licence to drive a light motor vehicle, therefore, was authorized to drive a light goods vehicle (transport vehicle) as well. The view taken with respect to the pre-amended position, before the amendment of Form 4 on 28.3.2001 appears to be correct for the reasons discussed by us. However, no change has been brought about by insertion of Form 4 after 28.3.2001 with respect to LMV category transport vehicle, thus, *Annappa Irappa Nesaria* (supra) cannot be taken

to be laying down correct legal position applicable after 28.3.2001. With respect to the post-amendment legal position, the decision cannot be said to be laying down the correct law. However, this Court has rightly opined in the aforesaid case that the person holding a licence to drive “light motor vehicle” could have driven “light passenger carriage vehicle” and “light goods carriage vehicle” also. Thus, the decision is partially overruled to the aforesaid extent only.

39. In *Oriental Insurance Co. Ltd. v. Angad Kol & Ors.* (2009) 11 SCC 356, this Court has considered the decisions in *Annappa Irappa Nesaria* (supra) and *Prabhu Lal* (supra). The accident took place on 31.10.2004. A mini dor auto dashed against the insured. The question arose whether the driver was not having an effective driving licence to drive “goods carriage vehicle” since he was holding the licence to drive the motorcycle and light motor vehicle. It was granted for a period of 20 years and as such this Court presumed that it was meant for the purpose of driving a vehicle other than a transport vehicle. This Court has observed thus:

“21. Licence having been granted for a period of 20 years, a presumption, therefore, arises that it was meant for the purpose of a vehicle other than a transport vehicle. Had the driving licence been granted for a transport vehicle, the tenure thereof could not have exceeded to three years.”

This Court observed that for grant of licence to drive a transport vehicle, provision in Section 10(2)(e) became effective from 28.3.2001, that is, the date on which form was amended and held that the vehicle was a “goods vehicle” as such the driver did not hold a valid driving licence for a “goods vehicle”. The legal position cannot be said to have been correctly appreciated in *Angad Kol’s case* (supra), for the reasons discussed by us, as the vehicle was of light motor vehicle class. Thus, the decision is required to be overruled as the vehicle which was driven was the light motor vehicle, though, it was goods carriage vehicle *i.e.* transport vehicle.

40. In *S. Iyyapan* (supra), this Court has considered the decisions in *Ashok Gangadhar* (supra), *Annappa Irappa Nesaria* (supra) as well as *Prabhu Lal* (supra) and has laid down thus:

“18. In the instant case, admittedly the driver was holding a valid driving licence to drive light motor vehicle. There is no dispute that the motor vehicle in question, by which accident took place, was Mahindra Maxi Cab. Merely because the driver did not get any endorsement in the driving licence to drive Mahindra Maxi Cab, which is a light motor vehicle, the High Court has committed the grave error of law in holding that the insurer is not liable to pay compensation because the driver was not holding the licence to drive the commercial vehicle. The impugned judgment (Civil Misc. Appeal No.1016 of 2002, order dated 31.10.2008 (Mad)) is, therefore, liable to be set aside.”

This Court has rightly held in *S. Iyyapan* (supra) that it was not necessary for the driver to get any endorsement in the driving licence to

drive Mahindra Maxi Cab as he was authorized to drive a light motor vehicle.

41. In *Kulwant Singh v. Oriental Insurance Co. Ltd.* (2015) 2 SCC 186, this Court has referred to the decisions in *S. Iyyapan* (supra) and *Annappa Irappa Nesaria* (supra) and has laid down that once the driver is holding a licence to drive light motor vehicle, he can drive commercial vehicle of that category. In *Kulwant Singh* (supra) it has been laid down thus:

“8. We find that the judgments relied upon cover the issue in favour of the Appellants. In *Annappa Irappa Nesaria* (2008) 3 SCC 464, this Court referred to the provisions of Sections 2(21) and (23) of the Motor Vehicles Act, 1988, which are definitions of "light motor vehicle" and "medium goods vehicle" respectively and the Rules prescribing the forms for the licence *i.e.* Rule 14 and Form 4. It was concluded: (SCC p. 468, para 20)

“20. From what has been noticed hereinbefore, it is evident that 'transport vehicle' has now been substituted for 'medium goods vehicle' and 'heavy goods vehicle'. The light motor vehicle continued, at the relevant point of time to cover both 'light passenger carriage vehicle' and 'light goods carriage vehicle'. A driver who had a valid licence to drive a light motor vehicle, therefore, was authorised to drive a light goods vehicle as well.”

9. In *S. Iyyapan* (2013) 7 SCC 62, the question was whether the driver who had a licence to drive "light motor vehicle" could drive "light motor vehicle" used as a commercial vehicle, without obtaining endorsement to drive a commercial vehicle. It was held that in such a case, the insurance Co. could not disown its liability. It was observed: (SCC p. 77, para 18)

“18. In the instant case, admittedly the driver was holding a valid driving licence to drive light motor vehicle. There is no dispute that the motor vehicle in question, by

which accident took place, was Mahindra Maxi Cab. Merely because the driver did not get any endorsement in the driving licence to drive Mahindra Maxi Cab, which is a light motor vehicle, the High Court has committed grave error of law in holding that the insurer is not liable to pay compensation because the driver was not holding the licence to drive the commercial vehicle. The impugned judgment [Civil Misc. Appeal No. 1016 of 2002, order dated 31-10-2008 (Mad)] is, therefore, liable to be set aside.”

10. No contrary view has been brought to our notice.

11. Accordingly, we are of the view that there was no breach of any condition of insurance policy, in the present case, entitling the Insurance Company to recovery rights.”

Though, as held above, and for the reasons assigned by us, the conclusion in *Kulwant Singh* (supra) was correct, however for the post-amended position after 28.3.2001 also the law continues to be the same for LMV class of vehicles.

42. In *Nagashetty* (supra), the vehicle involved was a tractor which was used for carrying goods. The goods were carried in a trailer attached to it. It was held that if a driver was holding an effective licence to drive a tractor, he could validly drive the tractor attached to a trailer. The contention that it was a transport vehicle, as the tractor was attached to a trailer and as such the driver was not holding a valid licence, was rejected. This Court has laid down thus:

“9. Relying on these definitions, Mr. S.C. Sharda submitted that admittedly the trailer was filled with stones. He submitted that once a trailer was attached to the tractor the tractor became a transport vehicle as it was used for carriage of goods. He submitted that Section 10(2) of the Motor Vehicles Act provides for grant of licences to drive specific types of vehicles. He submitted that the driver only had a licence to drive a tractor. He submitted that the driver did not have a licence to drive a transport vehicle. He submitted that therefore it could not be said that the driver had an effective and valid driving licence to drive a goods carriage or a transport vehicle. He submitted that thus the driver did not have a valid driving licence to drive the type of vehicle he was driving. He submitted that as the driver did not have a valid driving licence to drive a transport vehicle, the Insurance Co. could not be made liable. He submitted that the High Court was right in so holding.

10. We are unable to accept the submissions of Mr. S.C. Sharda. It is an admitted fact that the driver had a valid and effective licence to drive a tractor. Undoubtedly Under Section 10, a licence is granted to drive specific categories of motor vehicles. The question is whether merely because a trailer was attached to the tractor and the tractor was used for carrying goods, the licence to drive a tractor becomes ineffective. If the argument of Mr. S.C. Sharda is to be accepted, then every time an owner of a private car, who has a licence to drive a light motor vehicle, attaches a roof carrier to his car or a trailer to his car and carries goods thereon, the light motor vehicle would become a transport vehicle and the owner would be deemed to have no licence to drive that vehicle. It would lead to absurd results. Merely because a trailer is added either to a tractor or to a motor vehicle by itself does not make that tractor or motor vehicle a transport vehicle. The tractor or motor vehicle remains a tractor or motor vehicle. If a person has a valid driving licence to drive a tractor or a motor vehicle, he continues to have a valid licence to drive that tractor or motor vehicle even if a trailer is attached to it and some goods are carried in it. In other words, a person having a valid driving licence to drive a particular category of vehicle does not become disabled to drive that vehicle merely because a trailer is added to that vehicle.

11. In this case, we find that the Insurance Company when issuing the insurance policy, had also so understood. The insurance policy has been issued for a tractor. In this insurance policy, an additional premium of Rs. 12 has been taken for a trailer. Therefore the insurance policy covers not just the tractor but also a trailer attached to the tractor. The insurance policy provides as follows for the "persons or classes of persons entitled to drive":

‘Persons or classes of persons entitled to drive –

Any person including insured provided that the person driving holds an effective driving licence at the time of the accident and is not disqualified from holding or obtaining such a licence:

Provided also that the person holding an effective learner's licence may also drive the vehicle when not used for the transport of goods at the time of the accident and that such a person satisfies the requirements of Rule 3 of the Central Motor Vehicles Rules, 1989, limitations as to use.’

12. The policy is for a tractor. The "effective driving licence" is thus for a tractor. The restriction on a learner driving the tractor when used for transporting goods shows that the policy itself contemplates that the tractor could be used for carriage of goods. The tractor by itself could not carry goods. The goods would be carried in a trailer attached to it. That is why the extra premium for a trailer. The restriction placed on a person holding a learner's licence i.e. not to drive when goods are being carried is not there for a permanent licence-holder. Thus a permanent licence-holder having an effective/valid licence to drive a tractor can drive even when the tractor is used for carrying goods. When the policy itself so permits, the High Court was wrong in coming to the conclusion that a person having a valid driving licence to drive a tractor would become disqualified to drive the tractor if a trailer was attached to it."

43. Section 10(2) (a) to (j) lays down the classes of vehicles to be driven not a specific kind of motor vehicles in that class. If a vehicle falls into any of the categories, a licence holder holding licence to drive the class of vehicle can drive all vehicles of that particular class. No separate endorsement is to be obtained nor provided, if the vehicle falls in any of the particular classes of section 10(2). This Court has rightly observed in *Nagashetty* (supra) that in case submission to the contrary is accepted, then every time an owner of a private car, who has a licence to drive a

light motor vehicle, attaches a roof carrier to his car or a trailer to his car and carries goods thereon, the light motor vehicle would become a transport vehicle and the owner would be deemed to have no licence to drive that vehicle. It would lead to absurd results. Merely because a trailer is added either to a tractor or to a motor vehicle it by itself does not mean that driver ceased to have valid driving licence. In our considered opinion, even if such a vehicle is treated as transport vehicle of the light motor vehicle class, legal position would not change and driver would still have a valid driving licence to drive transport vehicle of light motor vehicle class, whether it is a transport vehicle or a private car/tractor attached with trolley or used for carrying goods in the form of transport vehicle. The ultimate conclusion in *Nagashetty* (supra) is correct, however, for the reasons as explained by us.

44. In *Natwar Parikh & Co. Ltd. v. State of Karnataka & Ors.* (2005) 7 SCC 364, this Court was concerned with the taxation under the Karnataka Motor Vehicles Taxation Act, 1957 and question arose whether the tractor along with trailer for transporting goods was to constitute distinct category of goods carrier which requires permission under Section 2(14) of the Motor Vehicles Act, 1957 and absence thereof would render it liable to tax under Section 3(2). This court held that the

tractor when attached with the trailer carrying goods, would become a transport vehicle for the purpose of taxation. This Court has discussed the question thus:

"Section 2(28) is a comprehensive definition of the words "motor vehicle". Although a "trailer" is separately defined in Section 2(46) to mean any vehicle drawn or intended to be drawn by a motor vehicle, it is still included in the definition of the words "motor vehicle" under Section 2(28). Similarly, the word "tractor" is defined in Section 2(44) to mean a motor vehicle which is not *itself* constructed to carry any load. Therefore, the words "motor vehicle" have been defined in the comprehensive sense by the legislature. Therefore, we have to read the words "motor vehicle" in the broadest possible sense keeping in mind that the Act has been enacted in order to keep control over motor vehicles, transport vehicles, etc. A combined reading of the aforesaid definitions under Section 2, reproduced hereinabove, shows that the definition of "motor vehicle" includes any mechanically propelled vehicle apt for use upon roads irrespective of the source of power and it includes a trailer. Therefore, even though a trailer is drawn by a motor vehicle, it by itself is a motor vehicle, the tractor-trailer would constitute a "goods carriage" under Section 2(14) and consequently, a "transport vehicle" under Section 2(47). The test to be applied in such a case is whether the vehicle is proposed to be used for transporting goods from one place to another. When a vehicle is so altered or prepared that it becomes apt for use for transporting goods, it can be stated that it is adapted for the carriage of goods. Applying the above test, we are of the view that the tractor-trailer in the present case falls under Section 2(14) as a "goods carriage" and consequently, it falls under the definition of "transport vehicle" under Section 2(47) of the MV Act, 1988."

There is no dispute with the aforesaid proposition, that tractor if drawing a trailer with goods would constitute goods carrier and consequently would be a transport vehicle. The aforesaid discussion was with respect to taxation and not with respect to the competence of driver

holding light motor vehicle licence to drive the tractor attached with trailer/trolley carrying goods. The driver had the competence to drive such a vehicle, tractor with a trailer carrying goods being of light motor vehicle category transport vehicle which is the question involved in the instant case. Therefore, the decision renders no help with the cause espoused by the insurer.

45. Transport vehicle has been defined in section 2(47) of the Act, to mean a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle. Public service vehicle has been defined in section 2(35) to mean any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward and includes a maxicab, a motor cab, contract carriage, and stage carriage. Goods carriage which is also a transport vehicle is defined in section 2(14) to mean a motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods. It was rightly submitted that a person holding licence to drive light motor vehicle registered for private use, who is driving a similar vehicle which is registered or insured, for the purpose of carrying passengers for hire or reward, would not require an endorsement as to drive a transport vehicle, as the same is not contemplated by the provisions of the Act. It was also rightly contended

that there are several vehicles which can be used for private use as well as for carrying passengers for hire or reward. When a driver is authorised to drive a vehicle, he can drive it irrespective of the fact whether it is used for a private purpose or for purpose of hire or reward or for carrying the goods in the said vehicle. It is what is intended by the provision of the Act, and the Amendment Act 54/1994.

46. 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.

47. In the light of aforesaid answer, let matters be placed for hearing on merits before the appropriate Bench.

.....J.
(ARUN MISHRA)

.....J.
(AMITAVA ROY)

.....J.
(SANJAY KISHAN KAUL)

JULY 3, 2017
NEW DELHI

ITEM NO.1501

COURT NO.11

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).5826/2011

MUKUND DEWANGAN

Appellant(s)

VERSUS

ORIENTAL INS.CO.LTD.

Respondent(s)

([HEARD BY - HON. MR. JUSTICE ARUN MISHRA, HON. MR. JUSTICE
AMITAVA ROY AND HON. MR. JUSTICE SANJAY KISHAN KAUL])

WITH

SLP(C) No. 2492-2493/2016 (IV-B)
 SLP(C) No. 8709-8710/2014 (IV-A)
 SLP(C) No. 20072/2015 (IV-A)
 SLP(C) No. 8712-8713/2014 (IV-A)
 SLP(C) No. 8704-8706/2014 (IV-A)
 SLP(C) No. 6429/2015 (XIV)
 SLP(C) No. 14333-14334/2014 (IV-B)
 SLP(C) No. 13008/2014 (IV-A)
 SLP(C) No. 15759-15760/2014 (IV-A)
 SLP(C) No. 15881/2016 (IV-B)
 (INCOMPLETE)
 SLP(C) No. 28455-28456/2013 (IV-B)
 SLP(C) No. 25373/2014 (IV-A)
 SLP(C) No. 28778/2016 (III)
 C.A. No. 9990/2014 (XV)
 SLP(C) No. 32833/2010 (X)
 SLP(C) No. 32828/2010 (X)
 SLP(C) No. 32835/2010 (X)
 SLP(C) No. 32827/2010 (X)
 C.A. No. 6379/2013 (III)
 C.A. No. 8992/2012 (IV-A)
 SLP(C) No. 36364-36365/2014 (IV-A)
 SLP(C) No. 887-890/2013 (IV-A)
 SLP(C) No. 15924/2015 (XIV)
 C.A. No. 4068-4069/2012 (IV)
 SLP(C) No. 16082/2012 (XIV)
 SLP(C) No. 3300/2015 (IV-A)
 SLP(C) No. 3302/2015 (IV-A)

Date : 03-07-2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE AMITAVA ROY
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

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Ms. Neerja Sachdeva, Adv.
 Ms. Meera Mathur, Adv.

UPON hearing the counsel the Court made the following
 O R D E R

Hon'ble Mr. Justice Arun Mishra pronounced the judgment of the Bench comprising His Lordship, Hon'ble Mr. Justice Amitava Roy and Hon'ble Mr. Justice Sanjay Kishan Kaul.

In view of the answer to the reference, for the reasons recorded in the reportable judgment, let matters be placed for hearing on merits before the appropriate Bench.

Pending application(s), if any, shall stand disposed of.

(B. PARVATHI)
 COURT MASTER (SH)

(TAPAN KUMAR CHAKRABORTY)
 COURT MASTER