

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

FAO No.3026 of 2007

Date of Decision.03.11.2017

Bajaj Allianz General Insurance Company Ltd.

.....Appellant

Vs

Sanjiv Kumar and others

.....Respondents

Present: Mr. Ashwani Talwar, Advocate
for the appellant.

None for the respondents.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appellant-insurance company is in appeal against the finding rendered by the Tribunal assessing the compensation to the tune of ₹1,60,000/- along with interest @7.5% from the date of filing of the claim petition till realization by fastening liability upon it, in respect of an accident that resulted into death of a boy aged, 6 years.

Mr. Ashwani Talwar, learned counsel appearing on behalf of the insurance company submits that the vehicle i.e. the tractor trolley met with the accident, was insured with the insurance company and the driver of the aforementioned vehicle had driving licence carrying the endorsement MCWG and LMV whereas the tractor attached with trolley is a transport vehicle and therefore, would not fall within the definition of LMV. In such circumstances, recovery rights ought to have been given to the insurance company.

There is no representation for the respondents. The appeal is of the year 2007, therefore, I proceeded to decide the appeal.

The point whether a driver having licence to drive LMV can drive a Transport Vehicle of that category without specific endorsement came up for consideration before the Hon'ble Supreme Court in **Mukund Dewangan Vs. Oriental Insurance Company Limited 2017 AIR (SC) 3668** where in paragraph 46, it has been held as under:-

“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.

In view of the ratio decidendi culled out by Hon'ble Supreme Court in **Mukund Dewangan's case** (supra), I am of the view that there is no force in the argument of Mr. Talwar and the finding rendered by the Tribunal cannot be faulted with. No ground for interference is made out. The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

November 03, 2017

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No