

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

FIRST APPEAL NO. 424 of 2013

United India Insurance Company Limited
Through its Divisional Manager and
authorized representative & Signatory,
Ahmednagar Divisional Office, Kisan Kranti Building,
Ahmednagar District Ahmednagar.

...APPELLANT

VERSUS

1. Sau. Babai @ Bababai Kisan Deokar
age 65 years occupation household & Agriculture
R/o Takali Bramhangaon Taluka Kopargaon
District Ahmednagar (Original claimant)
2. Rameshwar Appasaheb Shelke,
age 45 years occupation business
R/o Wakadi Taluka Rahata District Ahmednagar.

...RESPONDENTS

Mr A.B. Gatne, Advocate for appellant
Mr V.S. Bedre Advocate for respondent No.1

CORAM : SUNIL P. DESHMUKH, J.

DATE : 27th April 2018

JUDGMENT :

The matter has been taken up for final hearing by
consent of appearing parties.

2. This is an appeal by Insurance Company praying to
quash and set aside award passed by the Motor Accident Claims
Tribunal, Shrirampur, in Motor Accident Claim Petition No. 1 of

2007 dated 29th November 2012, inter-alia, principally on the ground that driver of offending vehicle had not been holding valid and effective driving licence since the licence was of light motor vehicle and not of goods vehicle and also with regard to application of multiplier which has been taken to be "8" by the Tribunal, whereas, according to Insurance Company same ought to have been "5". Situation, thus, emerges that so far as computation of income of the claimant is concerned, there does not appear to be any serious/particular dispute. As such, the consideration of appeal may have to be confined to the aforesaid two aspects initially referred to.

3. Learned Counsel for respondent /claimant, Mr Bedre, however, purports to refer to and rely on the decision of the Supreme Court in the case of *Mukund Dewangan Vs. Oriental Insurance Company Limited* reported in *AIR 2017 Supreme Court 3668*. He submits that in view of said decision, validity of licence on the ground of distinction between light motor vehicle and goods vehicle cannot be made considering that light motor vehicle is also a transport vehicle of which gross vehicle weight or unladen weight does not exceed 7500 Kgs. as specified in S. 10(2)(d) of the Motor Vehicles Act. In the circumstances, the decision of Tribunal that the Insurance Company would not be exonerated from the liability of payment of compensation can hardly be found

fault with. He further purports to point out that in this case appellant has been directed to pay compensation first and then recover it from vehicle owner/respondent No.2 by filing execution petition in the same Tribunal. As such interest of the appellant is impliedly secured. As far as multiplier is concerned, learned Counsel submits that position is clear in view of decision of the Supreme Court in the case of *Sarala Verma and others Vs. Delhi Transport Corporation and another* reported in {(2009) 6 Supreme Court Cases 121} and appropriate multiplier has been applied looking at the age of claimant on the relevant date had been 50 years. He adverts to paragraph No. 42 from the said judgment.

4. Having regard to aforesaid submissions, taking into account the judgment rendered by the Supreme Court in the case of *Mukund Dewangan*, cited (supra), particularly, Head Note (A) therein referring to that light motor vehicle includes transport vehicle as per weight prescribed in Section 2(21) r.w. Section 2(48) of the Motor Vehicles Act and driver holding light motor vehicle licence can drive all vehicles of class including a transport vehicle and a separate endorsement to drive such a transport vehicle may not be imperative. Having regard to aforesaid, taking exception in respect of validity of licence would not be efficacious. So far as multiplier is concerned, there does not appear to be any case for appellant nor any basis is being shown,

how and from where multiplier “5” could be brought in. Having regard to paragraphs No. 34 and 42 of the decision in the case of *Sarla Verma*, cited (supra), challenge to the multiplier applied stands razed to the ground. The appeal does not carry any substance.

5. The First Appeal is, therefore, stands dismissed.

(SUNIL P. DESHMUKH)
JUDGE.

Madkar