

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1579 of 2011(O&M)

Date of decision: 09.01.2018

Future General India Insurance Co. Ltd.

....Appellant

V/S

Jai Bhagwan & ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE B.S. WALIA

Present : Ms. Priya Deep, Advocate for Mr. Ashwani Talwar, Advocate for the appellant.

B.S WALIA, J. (Oral)

1. Learned counsel for the appellant states that in view of the pronouncement of the Hon'ble Supreme Court in case titled as **Mukund Dewangan versus Oriental Insurance Company Limited 2017(7)Scale 731**, separate endorsement for LMV is not necessary provided the weight of the vehicle is less than 7500 kgs. Relevant extract of the decision of the Hon'ble Supreme Court in **Mukund Dewangan's** case (supra) is reproduced 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.”

2. Learned counsel contends that admittedly, as per details given in the Insurance Policy Ex.R-2 on record, gross weight of the tractor trolley is 2350 kgs only i.e. much below the maximum limit of 7500 kgs prescribed for the vehicle to be treated as LMV. Learned counsel contends that in view of the authoritative pronouncement of the Hon'ble Supreme Court, the appeal no longer survives and the same may accordingly be dismissed as having become infructuous.

3. In view of the statement of learned counsel for the appellant, the Appeal is disposed of as having become infructuous.

January 09, 2017

(B.S. WALIA)

ps

JUDGE

1. Whether speaking/reasoned : Yes/No.

2. Whether reportable : Yes/No.

