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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **MAC.APP. 461/2018 & CM APPL. 19591/2018**

PARAMJEET SINGH

..... Appellant

Through: Mr. Brijender Chahar, Sr. Adv. with
Mr. Shashi Bhushan, Mr. Karan
Chahar and Ms. Jyoti Chahar,
Advocates.

versus

**PARMOD KUMAR & ORS (THE NEW INDIA ASSURANCE CO
LTD)**

..... Respondents

Through: Mr. R.K. Tripathi, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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13.03.2019

By the instant appeal, the appellant assails the judgment/award dated 03.05.2016 passed by the MACT (East) Karkardooma Courts, Delhi, whereunder, his liability for payment of the claim of the compensation has come to be fixed on the premise that at the time of the occurrence of the accident, he was driving the offending vehicle without valid driving licence.

The finding of the fixation of the liability of the appellant revolves around a short question of the valid or invalid licence held by the appellant at the time of the occurrence of the incident. It is an undisputed fact that at the time of occurrence of the incident, the appellant was having a valid driving licence for driving a light motor vehicle. He was holder of a driving licence for driving LMV-NT and driving 'Gramin Sewa make Tata Magic', which

was the vehicle involved in the accident, in short the ‘subject vehicle’. It is not in dispute that the subject vehicle was LMV.

Mr. Chahar, learned senior counsel for the appellant adverting to the definition of ‘light motor vehicle’ under sub-Section (21) of Section 2 of the Motor Vehicles Act, 1988, in short ‘the Act’ and placing reliance on ***Mukund Dewangan vs. Oriental Insurance Company Limited***, (2017) 14 SCC 663 strenuously contends that an LMV as defined in Section 2(21) of the Act includes a transport vehicle and for driving such a vehicle, the driving licence held by the appellant did not require a separate endorsement ‘for commercial use’ of a light motor vehicle by the Transport Authorities.

In ***Mukund Dewangan’s*** case (supra) relied upon by Mr. Chahar, learned senior counsel for the appellant, the categorical observations have come to be made by the Supreme Court, as under:

“60. Thus, we answer the questions which are referred to us thus:

60.1. “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 Sections 2(15) and 2(48). Such transport vehicles are not excluded from the definition of the light motor vehicle by virtue of Amendment Act 54 of 1994.

60.2. 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 roadroller, “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 roadroller, 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 of 1994 and 28-3-2001 in the form.

60.3. The effect of the amendment made by virtue of Act 54 of 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.

60.4. 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 of **Mukund Dewangan’s** case (supra), the plea raised by the appellant is fully covered and in view thereof, the appeal is bound to succeed. Suffice to say, it is not in dispute that the appellant was holding a valid LMV-NT licence. The appeal is therefore allowed and the appellant is discharged of his liabilities under the impugned award dated 03.05.2016. Award shall stand modified to that effect. The appeal stands disposed of along with the pending application(s).

A. K. CHAWLA, J

MARCH 13, 2019

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