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

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Decided on: 14.02.2020

+ MAC.APP. 75/2020, CM APPL. 6029/2020 & CM APPL. 6030/2020

ORIENTAL INSURANCE CO LTD Appellant

Through: Mr. R.K. Tripathi, Adv.

versus

JYOTI BOSE & ORS

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the order dated 05.11.2019 passed by the learned MACT in MACP No. 86/18, on the ground that right of recovery was not granted to the appellant/insurer; it is contended that the driver did not produce a driving licence showing that he was permitted to drive a commercial vehicle. The issue has been dealt with in the impugned order as under:-

“16.1 Insurance co./R3 did not lead any evidence in this case to support its contention taken in the written statement that R1 was holding only a private/personal driving licence to drive a LMV-NT and was thus not authorised to drive a commercial vehicle.”

2. The appellant chose not to lead any evidence apropos invalidity of the driving licence. Furthermore, in terms of the dicta of the Supreme Court in

Mukund Devangan vs. Oriental Insurance Co. Ltd. (2017) 14 SCC 663, the law stands settled that a person holding a driving licence for Light Motor Vehicle (LMV) can drive a vehicle whose unladen weight is upto 7,500 kgs. The vehicle in the present case is a tourist taxi whose weight does not exceed 7,500 kgs. Clearly, the licence was valid for driving of the offending vehicle.

3. In the circumstance, the contention of the learned counsel for the appellant is untenable and it being so, was rightly rejected by the learned Tribunal for the following reason:-

“16.4 It is now a settled law that a light motor vehicle (LMV) includes transport vehicle also and a holder of LMV licence can drive all the vehicles of the class including transport vehicles. It is a further settled law that a transport vehicle and Omnibus, the gross vehicle weight (GVW) of either of which does not exceed 7500 Kgs 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 Kgs or a motor car, tractor, road roller, the 'unladen weight' of which does not exceed 7500 Kgs i.e. no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class as enumerated above. My views are substantiated by the judgment of Hon'ble Supreme Court of India in case of Mukund Dewangan vs Oriental Insurance Company Limited, AIR 2017 SO 3668. In view of said settled law, R1 was having a valid driving licence to drive the offending vehicle.”

4. This Court finds no reason to interfere with the impugned order. The appeal is without merit and is accordingly, dismissed. The pending applications are also dismissed.

5. The statutory amount, alongwith interest accrued thereon, be deposited into the 'AASRA' Fund created by this Court for the amelioration or the conditioning and rehabilitation of burns victims.

6. A copy of this order be given *dasti* to the learned counsel for the appellant under the signature of the Court Master.

NAJMI WAZIRI, J

FEBRUARY 14, 2020

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