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

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Decided on: 17.01.2020

+ **MAC.APP. 516/2018**

BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD... Appellant
Through: **Ms. Neerja Sachdeva, Adv.**

versus

PAWAN KUMAR SINHA & ORS. Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 13.03.2018 passed by the learned MACT in Suit No. 4691/2016, insofar as it has not granted right of recovery against the owner and driver of the alleged offending vehicle. This issue has been dealt with in the impugned order as under:-

“Issue No.1

Whether respondent no.3 (be read as respondent no.4) is not liable to pay compensation, driver of the offending vehicle having no valid driving licence at the time of accident.

10. It is not in dispute that offending vehicle was insured at the time of accident with respondent no. 4. It is also not disputed that petitioner suffered injuries in this accident. Moreover, respondent no. 4 did not adduce any evidence to prove any statutory defence in its favour, though respondent no.4 has

examined Mr. Neelesh (R4W1), who simply relied upon the legal notice its supporting documents Ex. R4W/1/1 and R4W1/9. The plea taken by the respondent no. 4 is that respondent no. 1 was not holding valid driving licence for the category of vehicle, which he was driving at the time of accident. However, in view of the recent judgment of the Hon'ble Supreme Court to the effect that a person having a valid driving licence can drive transport vehicle as well and therefore the said contention of the respondent no. 4 is not have much force and therefore, being insurer, respondent no. 4 is liable to indemnify the insured / owner and to pay the compensation to the petitioner. This issue is therefore, decided in favour of petitioner and against the respondent no. 4."

2. It is the appellant's case that driver of the alleged offending vehicle did not have a valid driving licence to drive a commercial vehicle at the time of the motor vehicular accident. It is not in dispute that the driver had a valid driving licence for LMV. The alleged motor vehicle which was a Bajaj GC Max looks as under:-



3. The Court would note that in terms of the dicta of the Supreme Court in *Mukund Dewangan vs. Oriental Ins. Co. Ltd.*, (2016) 4 SCC 298, the holder of a driving licence for LMV can drive a motor vehicle not exceeding unladen weight of 7500 kgs. The test of the licence holder by the Licence Issuing Authority to drive an LMV not exceeding 7500 kgs is implicit, in the issuance of a driving licence. In the present case, the driver had produced a valid driving licence certifying that he possessed the requisite skills to drive the vehicle.

4. In view of the above, there is no ground to interfere with the impugned order.

5. The appeal is accordingly dismissed.

6. The statutory amount, alongwith interest accrued thereon, be deposited into the 'AASRA' Fund created by this Court.

NAJMI WAZIRI, J

JANUARY 17, 2020

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