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

Date of decision: 3rd August, 2023

+ **MAC.APP. 399/2018 & CM APPL. 16319/2018**
RELIANCE GENERAL INSURANCE CO LTD Appellant
 Through: Mr.A.K.Soni, Adv.

versus

MAHENDER SINGH & ORS Respondents
 Through: Mr.S.N. Parashar, Adv for LR's
 of R-1.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This appeal has been filed by the appellant challenging the Award dated 07.02.2018 passed by the learned Motor Accidents Claims Tribunal, North West District, Rohini Courts, New Delhi (hereinafter referred to as the 'Tribunal') in a MACT Case no.91/2018 (new No.50741/2016) titled ***Sh.Mahender Singh v. Sh.Sohan Arya & Ors.***, directing the appellant herein to pay a compensation of Rs.27,08,120/- alongwith 9% p.a. rate of interest on the amount of Rs.18,52,520/- to the respondent no. 1/claimant.

2. The limited challenge of the appellant to the Impugned Award is that though it was an admitted fact that the offending vehicle was being driven by the respondent no.2, who was holding only a learner's



licence, the learned Tribunal has erred in not granting a right to the appellant to recover the compensation paid to the respondent no.1 from the respondent nos.2 and 3.

3. I find no merit in the above challenge.

4. In *National Insurance Co. Ltd. v. Swaran Singh & Ors.*, (2004) 3 SCC 297, the Supreme Court, on the issue of motor vehicle being driven by a person holding a learner's licence, has held as under:

“Learner's licence

93. The Motor Vehicles Act, 1988 provides for grant of learner's licence. [See Section 4(3), Section 7(2), Section 10(3) and Section 14.] A learner's licence is, thus, also a licence within the meaning of the provisions of the said Act. It cannot, therefore, be said that when a vehicle is being driven by a learner subject to the conditions mentioned in the licence, he would not be a person who is not “duly licensed” resulting in conferring a right on the insurer to avoid the claim of the third party. It cannot be said that a person holding a learner's licence is not entitled to drive the vehicle. Even if there exists a condition in the contract of insurance that the vehicle cannot be driven by a person holding a learner's licence, the same would run counter to the provisions of Section 149(2) of the said Act.

94. The provisions contained in the said Act provide also for grant of driving licence which is otherwise a learner's licence. Sections 3(2) and 6 of the Act provide for restriction in the matter of grant of driving licence, Section 7 deals with such restrictions on granting of learner's licence. Sections 8 and 9 provide for the manner and conditions for grant of driving



licence. Section 15 provides for renewal of driving licence. Learner's licences are granted under the Rules framed by the Central Government or the State Governments in exercise of their rule-making power. Conditions are attached to the learner's licences granted in terms of the statute. A person holding learner's licence would, thus, also come within the purview of "duly licensed" as such a licence is also granted in terms of the provisions of the Act and the Rules framed thereunder. It is now a well-settled principle of law that rules validly framed become part of the statute. Such rules are, therefore, required to be read as a part of the main enactment. It is also a well-settled principle of law that for the interpretation of statute an attempt must be made to give effect to all provisions under the rule. No provision should be considered as surplusage.

95.Mandar Madhav Tambe case[(1996) 2 SCC 328 : 1996 SCC (Cri) 307] , whereupon the learned counsel placed reliance, has no application to the fact of the matter. There existed an exclusion clause in the insurance policy wherein it was made clear that the insurance company, in the event of an accident, would be liable only if the vehicle was being driven by a person holding a valid driving licence or a permanent driving licence "other than a learner's licence". The question as to whether such a clause would be valid or not did not arise for consideration before the Bench in the said case. The said decision was rendered in the peculiar fact situation obtaining therein. Therein it was stated that "a driving licence" as defined in the Act is different from a learner's licence issued under Rule 16 of the Motor Vehicles Rules, 1939 having regard to the factual matrix involved therein.

96. The question which arises for consideration in these petitions did not arise



there. Neither was the same argued at the Bar nor were the binding precedents considered. Mandar Madhav Tambe case[(1996) 2 SCC 328 : 1996 SCC (Cri) 307] therefore, has no application to the facts of these cases nor creates any binding precedent. The view we have taken is in tune with the judgments rendered by different High Courts consistently. (See for example New India Assurance Co. Ltd. v. LathaJayaraj [1991 ACJ 298 (Ker)] .)

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Summary of findings

110. The summary of our findings to the various issues as raised in these petitions is as follows:

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(viii) If a vehicle at the time of accident was driven by a person having a learner's licence, the insurance companies would be liable to satisfy the decree."

5. In the above judgment, the Supreme Court has held that a person holding a learner's licence is entitled to drive a vehicle and, in fact, a condition in the contract of the Insurance Company that the vehicle cannot be driven by a person holding a learner's licence would run counter to the provisions of The Motor Vehicles Act, 1988.

6. In the present case, in fact, the charge-sheet was filed against the driver/respondent no. 2 herein under Sections 379/337 of the Indian Penal Code, 1860. It was not alleged that there was a violation of Rule 3 of the Motor Vehicles Rules, 1989.

7. For the above reason, I find no merit in the present appeal. The same is accordingly dismissed.



8. The statutory amount deposited by the appellant shall be released in favour of the appellant along with interest accrued thereon.

9. As the appeal stands dismissed, the awarded amount be released in favour of the legal heirs of the respondent no.1, who also stand impleaded in the present appeal vide order dated 17.05.2023.

10. The learned counsel for the respondent no.1 also points out that the entire awarded amount has not been deposited by the appellant. The appellant shall deposit the remaining amount with the learned Tribunal alongwith interest as awarded in the Impugned Award, within a period of six weeks from today. The said amount shall be released in favour of the legal heirs of the respondent no.1, who have been impleaded in the present appeal vide order dated 17.05.2023 of this Court, in terms of the Impugned Award.

11. The appeal, alongwith application stands disposed of in the above terms.

NAVIN CHAWLA, J

AUGUST 3, 2023/Arya/ss