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

% **Judgment reserved on: 07th February, 2024**
Judgment pronounced on: 27th February, 2024

+ **MAC.APP. 921/2018**

LACHHMAN SINGH Appellant

Through: **Mr. Utkarsh Mathur, Advocate.**

versus

KAVITA DEVI & ORS (THE ORIENTAL INSURANCE CO LTD. Respondent

Through: **Mr. Pradeep Gaur, Mr. Amit Gaur and Ms. Sweta Sinha, Advocates for R-4/OIC.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. The contest in the present appeal is between the appellant/registered owner of the offending vehicle and respondent No.4/The Oriental Insurance Company Limited, which got the offending vehicle insured for third party risks. The service of notice on the instant appeal to the claimants i.e., respondents No. 1 to 3 has been dispensed with.

2. The appellant is assailing the impugned judgment-cum-award dated 02.04.2018 passed by learned Presiding Officer, Motor Accident Claims Tribunal, (South-East), Saket Courts, New Delhi¹, whereby the claim for compensation filed by the claimants under Section 140 read with section 166 of the Motor Vehicles Act, 1988², was allowed and a

¹ MACT

² The Act



total compensation in the sum of Rs. 19,58,005/- with interest @ 9% p.a. has been awarded from the date of filing of the claim petition, which is 02.02.2017, till its realization.

3. The grievance of the appellant/registered owner is that the offending vehicle i.e., TATA 407 bearing Registration No. DL 1LW 4294, had a valid permit to ply in Greater Noida, but learned Tribunal has given the rights to respondent No.4/Insurance Company to recover the amount of compensation that is paid to the claimants/respondents No. 1 to 3.

4. It is pertinent to mention here that during the pendency of this appeal, CM APPL.No. 42719/2018 was moved on behalf of the appellant for production of additional evidence with respect to the permit requirement, which was allowed by this Court *vide* order dated 12.10.2018.

5. Pursuant thereto, the appellant examined Sh. Rajesh Singh, S/o Sh. Maharaj Narain Singh, posted as Assistant Regional Transport Officer (Enforcement, Ghaziabad, ARTO) who deposed about the road tax receipt of Rs.50/-, which was deposited for vehicle No. DL-IE-W-4294 *vide* receipt no. UP00160600275958 on 28.08.2016 up to the same day i.e., 28.08.2016. The appellant further examined Sh. Piyush Srivastava, Technical Operator, NIC, Yojana Bhawan, Lucknow as AW-2, since National Informatics Centre (NIC) maintains the database of the generation of road tax in State of Uttar Pradesh.

ANALYSIS AND DECISION:

6. Having heard learned counsels for the parties and on perusal of the record, the long and short of the submissions advanced at the Bar



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hinges on the purport and legal sanctity of a receipt for fee/road tax of Rs.50, deposited towards the offending vehicle bearing registration No. DL-1LW-4294 on 28.08.2016 (Mark A) and then marked as Ex.AW-2/1.

7. It is pertinent to mention here that the accident in question had occurred on 28.08.2016, which led to the unfortunate death of the motor-cyclist Munish Kumar and the claimants are his widow wife, one minor child and his mother. It is also proven during the course of trial before the learned Tribunal that the appellant, being the registered owner of the offending vehicle, possessed a valid permit for plying the offending transport vehicle in Delhi. On the aspect of fixation of the liability upon the appellant/registered owner, the learned Tribunal made the following observations:-

“27. The next question is which respondent is liable to pay the compensation to the claimant.

28. The defence of the insurance company is that the offending vehicle bearing No. DL-1LW-4294 was being plied without a valid permit at the time of accident, which is a violation of policy and therefore, the insurance company is not liable to pay the compensation.

29. Counsel for insurance company examined witness from Transport Department, Rajpura Road, Under Hill Road, Delhi who stated that permit of the vehicle bearing No.DL-1LW-4294 was issued from their authority for Delhi State only and proved his report as EX.R2W2/1. Perusal of record shows that the permit of the offending vehicle was issued for Delhi State only whereas the accident had taken place at Sector 163, Greater Noida. Therefore, the compensation will be payable at the first instance by the insurance company liberty to recover the same from the driver cum owner of the vehicle in question.

30. The insurance company would be entitled to recover the amount from driver cum owner without filing any fresh proceedings for determination of the liability, with interest @9% from the date of deposition in terms of this award, till actual



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realization. Notice of deposit shall be given by the insurance company to the claimants as well as to the counsel for claimant.

31. The award amount shall be deposited with State Bank of India, Saket Court Branch, New Delhi by way of RTGS/NEFT/IMPS in account of MACT FUND PARKING. A/c No. 35195787436. IPS Code SBINQ014244 and MICR code 110002342 under intimation to the Nazir along with calculation of interest and to the Counsel for the claimant. Insurance company shall also furnish TDS certificate, if any to the claimant.”

8. In order to understand whether the aforesaid observations are correct based on facts and law, let us have a look at the scanned copy of the tax receipt (Ex.AW-2/1)

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ANNEXURE A-2

TRANSPORT DEPARTMENT, UTTAR PRADESH

e-Receipt for Tax Payment

Receipt No:	UP00180600278856	Registration No:	DL-1W-4294
Transaction Id:	UP00180600311006	Carrier Name:	LACHHMAN SINGH
Bank Ref. No:	CP98348875	Consignment No:	MAT205410FBH00076
Tax From Date:	28-08-2016	Vehicle Type:	LGV
Tax Upto Date:	28-08-2016	Vehicle Weight:	3550 kg
Amount:	Rs.50		
Tax Mode:	Days		
Payment Date:	28-08-2016 07:28:49		

This is system generated Receipt. Signature is not required.

Signature Not Verified

Digitally Signed By: PRANJAN KUMAR VATS
Signing Date: 29/02/2024 13:05:09

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9. A bare perusal of the aforesaid receipt would show that it is titled as ‘e-receipt for Tax Payment’ under the banner of the Transport Department, Uttar Pradesh. It does not mention anything about the permit type providing ‘not applicable’ and the payment was made on 28.08.2016 at 7.26 am in the morning. Evidently, the appellant/registered owner was having the permit to ply the offending vehicle in Delhi only as per Ex.R2W2/1 and the accident occurred on 28.08.2016 at 12.45 p.m. It is pertinent to mention here that the offending vehicle was admittedly a ‘goods carriage’ within the meaning of Section 2(14)³ of the MV Act and Section 2(31)⁴ defines a permit, which mandates that it is issued by the State or Regional Transport Authority or by a prescribed Authority for using a motor vehicle as a transport vehicle. Chapter V of the Act then has elaborate provisions for regulating, controlling and plying of transport vehicles. Section 66 of the Act prohibits any owner of a motor vehicle from using or permitting the vehicle to be used as a transport vehicle at any public place, whether or not the goods are actually being carried in the same vehicle without a permit. Section 67 of the Act then empowers the State Government to control the road transport and Section 68 of the Act provides for constitution of Transport Authorities. Further, Section 69 of the Act is a general provision for entertaining and issuing the permits by the Regional Transport Authorities. It would be

³ “goods carriage” means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods;

⁴ “permit” means a permit issued by a State or Regional Transport Authority or an authority prescribed in this behalf under this Act authorising the use of a motor vehicle as a transport vehicle.



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expedient to reproduce Section 77 of the Act, which provides for information that needs to be supplied in an application for goods carriage permit. The section reads as under:-

“77. Application for goods carriage permit. - An application for a permit to use a motor vehicle for the carriage of goods for hire or reward or for the carriage of goods for or in connection with a trade or business carried on by the applicant (in this Chapter referred to as a goods carriage permit) shall, as far as may be, contain the following particulars, namely:

- (a) the area or the route or routes to which the application relates;
- (b) the type and capacity of the vehicle;
- (c) the nature of the goods it is proposed to carry;
- (d) the arrangements intended to be made for the housing, maintenance and repair of the vehicle and for the storage and safe custody of the goods;
- (e) such particulars as the Regional Transport Authority may require with respect to any business as a carrier of goods for hire or reward carried on by the applicant at any time before the making of the application, and of the rates charged by the applicant;
- (f) particulars of any agreement, or arrangement, affecting in any material respect the provision within the region of the Regional Transport Authority of facilities for the transport of goods for hire or reward, entered into by the applicant with any other person by whom such facilities are provided, whether within or without the region;
- (g) any other particulars which may be prescribed.

10. Section 80 of the Act then provides for the procedure in applying for and granting permits. The long and short of the aforesaid discussion is that the appellant/registered owner has not complied with the aforesaid provisions. He has not been issued any permit by the State Transport Authority or the Regional Transport Authority, Greater Noida and evidently, he has been carrying a ‘State permit’,



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which authorizes the use of the goods vehicle in Delhi only and it is not a national permit.

11. In so far as the receipt Ex.AW-2/1 is concerned, it is not in the nature of a permit enabling the offending goods vehicle to enter its goods vehicle and ply the same in the State of Uttar Pradesh. It is in the nature of a toll tax or tax on the vehicle so as to allow the entry of the vehicles into the State of Uttar Pradesh by virtue of the Uttar Pradesh Motor Vehicle Taxation Act, 1997⁵. Section 4 is the charging Section that empowers the State Government to charge tax to regulate the entry of vehicles into the State. The State Government is further empowered to frame rules under Section 28 of the Act, pursuant to which Rule 9 of the UPMVT Rules, 1998 then provides for the method of payment of tax and Rule 12 provides for issuance of token/receipt for payment of tax, which is what AW-2/1 is all about. The power to levy and collect such tax is by virtue of Section 4 of the aforesaid Act, and therefore, the plea that the appellant/registered owner had a permit to ply the offending vehicle in the State of Uttar Pradesh, is not sustainable in law.

12. In view of the foregoing discussion, this Court finds that there is no legal infirmity, perversity or incorrect approach adopted by learned Tribunal in granting the recovery rights to the respondent No.4/insurance company on payment of compensation to the claimants.

⁵ UPMVT Act



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13. All the interim orders shall stand vacated. The amount of compensation be released to the claimants/respondents No. 1 to 3, if not already released with interest, as the case may be.
14. The appeal stands disposed of accordingly.

DHARMESH SHARMA, J.

FEBRUARY 27, 2024

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