IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

FIRST APPEAL NO. 1477 OF 2019

APPELLANTS: (Org. Res. No.1) On R.A.	1)	Sajan s/o Jageshwarprasad Mishra, Aged about 29 years, Occu: Driver, R/o Nikhil Society, Yavatmal, Tq. And Distt. Yavatmal.
(Org. Res. No.2) On R.A.	2)	Jageshwarprasad s/o Deoraj Mishra, Aged about 66 years, Occu: Transportation, R/o Old Umarsara, Tq. & Dist. Yavatmal.

...V E R S U S...

RESPONDENTS (Org. Petitioner No.1) On R.A.	1)	Smt. Shobhabai wd/o Wamanrao Tarone, Aged about 61 years, Occu: Household.
(Org. Petitioner No.2) On R.A.	2)	Nitin s/o Wamanrao Tarone, Aged about 28 years, Occu: Student.
(Org. Petitioner No.2) On R.A.	3)	Amol s/o Wamanrao Tarone, Aged about 26 years, Occu: Student, Above respondents Nos. 1 to 3 are R/o c/o Laxmi Pipe Factory, MIDC Lohara, Tq. And District Yavatmal.
(Org. Res. No.3) On R.A.	4)	Bajaj Allianz General Insurance Co. Ltd. through its Branch Manager, 3rd Floor, Shriram Towers, Near NIT Building, Sadar, Nagpur, Tq. and Distt. Nagpur.

Mr. A.W. Paunikar, counsel for appellants.
Ms Mrunal Nail, counsel for respondent No.4.

CORAM : PRAVIN S. PATIL, J. .
DATE : 15/10/2025

ORAL JUDGMENT :

1 By this appeal, the challenge on behalf of the appellants is to the judgment and order passed by the Chairman, Motor Accident Claims Tribunal, Yavatmal, in MACP No.81/2010, dated 10/02/2014.

2. The appellant No.1, who is the owner of the offending vehicle, has filed the present appeal. The facts which are not disputed in the present appeal are that respondent No.1 is the widow, and applicant Nos. 2 and 3 are the legal heirs of the deceased.

3. On 07/07/2009, when deceased – Waman was proceeding on his bicycle from Lohara towards MIDC Square, a Tata Ace Vehicle bearing No. MH-29/M-1833 came from opposite direction at a high speed and dashed the deceased Wamanrao. In the said accident, the deceased sustained serious injuries and succumbed to the death. Accordingly, an offence was registered at Yavatmal City Police Station against the driver of the vehicle.

4. The case of the claimants before the Claims Tribunal was that the offending vehicle was duly insured with respondent No.4 – the Insurance Company. Accordingly, the claimants claimed

compensation of Rs. 2,00,000/- in the matter. The respondent No.4 – Insurance Company contested the claim petition before the Tribunal and raised a specific ground that driver of the offending vehicle was having the licence for a Light Motor Vehicle (LMV). Therefore, unless there was an endorsement permitting him to drive the transport vehicle, the said licence could not be treated as a valid and effective licence, and such act amounted to a breach of the terms of the policy.

5. The learned Tribunal, by accepting the objection raised by the respondent No.4- Company, held that driver of the offending vehicle was not holding a valid and effective driving licence at the time of accident. According to the Tribunal, the present appellant No.1 was driving a Transport Vehicle without having valid and affective licence. The same amount to breach of policy. Hence, passed order of Recover and Pay in the matter.

6. The owner of the vehicle has filed the present appeal stating that, although the driver of the vehicle possessed a licence to drive a Light Motor Vehicle (LMV), such a licence entitled to him drive a transport vehicle as well. Therefore, the reasons recorded by the learned Tribunal are contrary to the settled legal position. According to the appellants, the Hon'ble Supreme Court of India in the case of ***Mukund Dewangan Vs Oriental Insurance Company Limited reported in (2017) 14 SCC 663*** has already clarified this legal position.

7. The learned counsel for the appellants has further relied upon the recent judgment of the Hon'ble Supreme Court of India in

the case of ***M/S. Bajaj Alliance General Insurance ... vs Rambha Devi reported in Civil Appeal No. 841 of 2018 decided on 06/11/2024.*** In the said judgment, the Hon'ble Supreme Court has drawn certain conclusions which would be profitable to refer to in the present matter. The conclusion are recorded in para-131 of the judgment as under :-

> ***131.*** *Our conclusions following the above discussion are as under:-*
>
> *(I) A driver holding a license for Light Motor Vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7,500 kg, is permitted to operate a 'Transport Vehicle' without needing additional authorization under Section 10(2)(e) of the MV Act specifically for the 'Transport Vehicle' class. For licensing purposes, LMVs and Transport Vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, erickshaws, and vehicles carrying hazardous goods.*
>
> *(II) The second part of Section 3(1), which emphasizes the necessity of a specific requirement to drive a 'Transport Vehicle,' does not supersede the definition of LMV provided in Section 2(21) of the MV Act.*
>
> *(III) The additional eligibility criteria specified in the MV Act and MV Rules generally for driving 'transport vehicles' would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7,500 kg i.e. 'medium goods vehicle', 'medium passenger vehicle', 'heavy goods vehicle' and 'heavy passenger vehicle'.*
>
> *(IV) The decision in Mukund Dewangan (2017) is upheld but for reasons as explained by us in this judgment. In*

> *the absence of any obtrusive omission, the decision is not per incuriam, even if certain provisions of the MV Act and MV Rules were not considered in the said judgment*

8. From the aforesaid judgment, it is crystal clear that a person holding a licence to drive a Light Motor Vehicle (LMV) is also entitled to drive a transport vehicle. As such, this legal position now stands clarified by the judgment of the Hon'ble Supreme Court.

9. In light of above legal position, the finding of the learned Tribunal, to the extent that the driver of the vehicle was not holding a valid and effective licence and consequently directing the Insurance Company to pay and recover the amount, is not sustainable in the facts and circumstances of the present case.

10. In view of the above facts and circumstances, the first appeal deserves to be allowed.

11. Hence, I proceed to pass the following order.

<u>ORDER</u>

a] The first appeal is allowed.

b] The judgment and award dated 10/02/2014 passed by the learned Motor Accident Claims Tribunal, Yavatmal passed in M.A.C. P No 81/2010 is modified to the extent that the present appellants and respondent No.4 – Insurance Company are jointly and severely responsible to pay the compensation amount to the claimant.

c] The statutory amount of Rs. 25,000/- deposited by the appellant vide Pursis dated 11/01/2019 be refunded to them with interest accrued thereon.

d] The respondent No.4- Insurance Company is restrained to recover the amount from the present appellants which is already disbursed in favour of the claimants.

e] No order as to costs.

(PRAVIN S. PATIL, J)