2025:PHHC:086691

# IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**101** **FAO-7576-2014 (O&M)**
**Date of Decision : 16.07.2025**

GURJIT SINGH @ TINKU AND ANR .... Appellants

VERSUS

RELIANCE GENERAL INSURANCE AND ANR .... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Mukesh Yadav, Advocate for
Mr. Deepak Goyal, Advocate for the appellants.

Mr. Nigam K. Bhardwaj, Advocate for respondent No.1.

Service of respondent No.2 dispensed with
vide order dated 08.12.2015.

**ALKA SARIN, J. (ORAL)**

**CM-20282-CII-2014**

1. This is an application for condonation of delay of 103 days in filing the main appeal.

2. For the reasons stated in the application, the same is allowed and the delay of 103 days in filing the main appeal is condoned.

**CM-20283-CII-2014**

3. This is an application for condonation of delay of 350 days in refiling the main appeal.

4. For the reasons stated in the application, the same is allowed and the delay of 350 days in refiling the main appeal is condoned.

**FAO-7576-2014**

5. The present appeal has been preferred by the appellants (the driver and the owner of the offending vehicle) challenging the impugned award dated 18.08.2012 passed by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal') whereby respondent No.1-Insurance Company was exonerated from its liability to pay the compensation.

6. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being reproduced herein for the sake of brevity.

7. In the present appeal the only challenge laid by the learned counsel for the appellants is to the finding of the Tribunal exonerating the respondent No.1-Insurance Company on the ground that the driver of the Tempo bearing registration No.PB-13-R-3397 was not holding a driving licence to drive the same inasmuch as he was possessing a driving licence only to drive a motorcycle/scooter with gear and Light Motor Vehicle (LMV) and his driving licence (Ex.R-2) did not bear any endorsement authorizing him to drive a Tempo. In this regard learned counsel for the appellants has relied upon a judgment of the Hon'ble Supreme Court in the case of **Mukund Dewangan Vs. Oriental Insurance Company Limited [2017 (4) RCR (Civil) 111]** to contend that the driving licence to drive a Light Motor Vehicle (LMV) would also permit the driving of a vehicle, unladen weight of which does not exceed 7500 kgs. Learned counsel for the appellants would further contend that since the unladen weight of the

offending vehicle was 510 kgs as per its registration certificate, hence, the finding of the Tribunal exonerating respondent No.1-Insurance Company is wrong.

8. *Per contra*, learned counsel for respondent No.1-Insurance Company has contended that licence of a Light Motor Vehicle (LMV) would not be valid for driving a Tempo and that the licence of the driver in the present case did not bear any endorsement authorizing him to drive the said Tempo and hence there is no error in the finding of the Tribunal.

9. Heard.

10. In the present case, admittedly, the driver of the offending vehicle was holding a driving licence (Ex.R-2) to drive a motorcycle with/without gear and Light Motor Vehicle (LMV). A perusal of the registration certificate (Ex.R-1) of the Tempo reveals that the unladen weight of the offending vehicle was 510 kgs and its gross weight was 1060 kgs.

11. Section 2(21) of the Motor Vehicles Act, 1988 reads as under :

> *'2(21) "light motor vehicle" means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which, does not exceed 7500 kilograms.'*

12. The argument of the learned counsel for respondent No.1-Insurance Company that since the driving licence was only to drive a motorcycle with/without gear and Light Motor Vehicle (LMV) and that the

same did not bear any endorsement authorizing the driver to drive a Tempo and therefore the finding of the Tribunal is correct deserves to be rejected in view of the judgment of the Hon'ble Supreme Court in the case of **Mukund Dewangan** (supra) wherein it was held as under :

> *'(ii) A transport vehicle and omnibus, the gross vehicle weight 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 kgs 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 kg or a motor car or tractor or road-roller, the "unladen weight" of which does not exceed 7500 kg. That is to say, no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class as enumerated above. A licence issued under Section 10(2)(d) continues to be valid after Amendment Act 54/1994 and 28.03.2001 in the form.'*

13. Further, the judgment in the case of **Mukund Dewangan** (supra) was reconsidered by the Constitution Bench of the Hon'ble Supreme Court in the case of **M/s Bajaj Alliance General Insurance Co. Ltd. vs. Rambha Devi & Ors. [2025(1) RCR (Civil) 5]** wherein it was held 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."*

14. In view of the above, since the unladen weight of the offending vehicle was less than 7500 kgs., the driver thereof was duly authorized to drive the same vide his driving licence (Ex.R-2). Hence, the present appeal filed by the driver and the owner of the offending vehicle is liable to be allowed and the liability to pay the compensation would be that of the respondent No.1-Insurance Company.

15. No other argument has been raised by the counsel. Accordingly, the present appeal is allowed and the impugned award stands modified to the extent that respondent No.1-Insurance Company is held liable to pay the amount of compensation to the claimant.

16. Pending applications, if any, also stand disposed off.

**16.07.2025** **(ALKA SARIN)**
*Aman Jain* **JUDGE**

*NOTE: Whether speaking/non-speaking: Speaking*
*Whether reportable: Yes/No*