

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****FAO-2645-2017 (O&M)****Date of Decision : 12.08.2025**

Oriental Insurance Company Ltd.

....Appellant

VERSUS

Bant Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajneesh Malhotra, Advocate for the appellant.

Mr. Kuldeep Singh, Advocate for respondent Nos.2 and 3.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the Insurance Company challenging the impugned award dated 26.10.2016 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'Tribunal') whereby a compensation of ₹3,65,000/- was awarded and the Insurance Company has been held liable to pay the same.

2. 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.

3. Learned counsel for the appellant-Insurance Company would contend that the finding of the Tribunal on issue No.3 is erroneous inasmuch as respondent No.2 herein i.e. driver of the Swift Car bearing registration No.PB-58C-0006 (hereinafter referred to as the 'offending vehicle') was not holding a valid driving licence to drive the same at the time of accident.

Learned counsel for the appellant would further contend that the driving licence (Ex.R1) was valid only to drive a Motorcycle Without Gear and Tractor. Learned counsel for the appellant would further contend that since there has been violation of the terms and conditions of the Insurance Policy (Ex.R2), the appellant cannot be held liable to pay the amount of compensation as awarded vide the impugned award. It has further been contended that even if the primary liability of the appellant is held to pay the amount of compensation, recovery rights ought to have been granted to it by the Tribunal.

4. On the other hand, learned counsel for respondent Nos.2 and 3 has contended that the unladen weight of the offending vehicle was less than 7500 kgs., hence the driver of the offending vehicle was holding a valid driving licence (Ex.R1) and that there is no error in the finding of the Tribunal on issue No.3. In support of his contention, he has relied upon a judgment of the Hon'ble Supreme Court in case of **Mukund Dewangan Vs. Oriental Insurance Company Limited [2017 (4) RCR (Civil) 111]**.

5. Heard.

6. In the present case, the onus to prove the issue No.3 - "*Whether respondent No.1 was not holding valid and effective driving licence and the offending vehicle was not having a valid RC at the time of accident*" - was on the appellant. In order to discharge that onus, the appellant though has tendered in evidence the Insurance Policy (Ex.R2) however it did not lead any evidence to show as to how the driving licence (Ex.R1) was not valid to drive the offending vehicle. A copy of the Registration Certificate of the offending

vehicle was produced and proved on record as Ex.R3. A perusal thereof reveals that the unladen weight of the offending vehicle is 1000 kgs. 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.’

7. Hon’ble Supreme Court in the case of **Mukund Dewangan** (supra) 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.’

8. 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.”

9. The appellant could not lead any evidence to prove that the driving licence (Ex.R1) and the Registration Certificate (Ex.R3) were not valid. In view thereof, no fault can be found with the findings of the Tribunal on issue No.3 hence, the same are upheld.

10. In view of the above, present appeal being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

12.08.2025

jk

**(ALKA SARIN)
JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO