



2025:DHC:4770



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 07.05.2025***

+ MAC.APP. 437/2019 & CM APPL. 15898/2019

IFFCO TOKIO GENERAL INS CO LTDAppellant

Through: Ms. Suman Bagga, Advocate

versus

ROSHAN LAL & ORS

.....Respondent

Through: None.

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Appeal has been filed on behalf of the Appellant under Section 173 of the Motor Vehicle Act, 1988 [hereinafter referred to as 'MV Act'] impugning the Award dated 06.12.2018 modified by Order dated 08.01.2019 titled ***Roshan Lal & anr. v. Rakesh & Ors.*** [hereinafter referred to as "Impugned Award"] passed by the learned Presiding Officer, MACT, Rohini Courts, New Delhi.

2. Learned Counsel appearing on behalf of the Appellant, at the outset, submits that the challenge in the present Appeal is limited to one aspect, that no recovery rights were granted by the learned MACT against the driver and the owner of the offending vehicle, who are Respondent Nos. 3 and 4.

3. None appears on behalf of the Respondents despite service.

4. Briefly, the facts are that on 28.07.2009, the deceased was going on a motorcycle along with a friend. The motorcycle met with an accident with a



three-wheeler scooter [TSR] (hereinafter referred to as “offending vehicle”). The offending vehicle was being driven by Respondent No.3, when it hit the motorcycle of the deceased from the opposite direction and as a result of the collision the deceased and his friend fell on the road and sustained injuries. The deceased was taken to the hospital for treatment where he succumbed to injuries on 29.07.2009.

5. The deceased was a 20 year old mechanic earning Rs. 15,000 per month from doing private repair work by repairing Auto, Scooter and Motorcycle(s). The Claim Petition was filed before the learned MACT being MAC Petition No. 4325/19. The claim was contested and an Impugned Award dated 06.12.2018 as modified by Order dated 08.01.2019 was passed by the learned MACT. By the Impugned Award, the directions were passed to make payment of compensation in the sum of Rs. 6.68 lakhs along with interest @ 9%.

6. As stated above, the challenge in the present Appeal is limited to the ground that no recovery rights have been granted to the Appellant against the owner and the driver of the offending vehicle, Respondent Nos. 3 and 4 respectively.

6.1 Although service was effected on the Respondent Nos. 3 and 4, none have appeared on behalf of the Respondent Nos. 3 and 4 for the last several dates. Accordingly, the Respondents are proceeded *ex-parte*.

7. Learned Counsel appearing on behalf of the Appellant has submitted that the driving license held by Respondent No. 3 was for Motorcycle and Light Motor Vehicles (commercial) only and not a three wheeler (TSR), as was submitted by the Respondent No. 3. It is contended by the learned



Counsel for the Appellant that a separate license is required for driving of a three wheelers/TSR.

7.1 Learned Counsel further submits that this contention was raised by the Appellant before the learned MACT, however, the contention was rejected.

8. Learned Counsel for the Appellant submits that the learned Tribunal has erred in going into a discussion on the difference between Light Motor Vehicle (LMV) and Light Goods Vehicle (LGV). Learned Counsel has relied upon the judgment of the Supreme Court in ***Mukund Dewangan v. Oriental Insurance Company Ltd¹***, to contend that the Supreme Court has held that when a driver is holding a driving license which is valid for a LMV, whereas the vehicle involved is LGV, the insurance company is not entitled to any recovery rights.

9. Learned Counsel for the Appellant has further contended that the finding as given by the learned MACT that a person who had license to drive a light motor vehicle could also have the ability to drive a three wheeler or TSR is not correct. In this behalf, learned Counsel seeks to rely upon the judgment dated 10.02.2023 passed by a Coordinate Bench of this Court in ***HDFC ERGO General Insurance Co. Ltd. vs. Bindu Paswan & Anr²*** wherein the Coordinate Bench gave a finding that the Tribunal ought not to have presumed that a person holding a licence for a LMV (Comm) was automatically competent to drive a two-wheeler. The Coordinate Bench also emphasized that the skills and licence requirements for the two categories are distinct under the Motor Vehicles Act.

¹ (2017) 14 SCC 663

² 2023 SCC OnLine Del 816



10. This Court has examined the Impugned Award. It is apposite to set out paragraphs 26 to 29 of the Impugned Award where this issue is discussed. The learned Tribunal held that the TSR falls in the category of a light motor vehicle and thus, the driving license for a commercial Light Motor Vehicle [LMV] [Comm.] was the valid license. Thus, it was held that the Insurance Company is not liable to claim breach of terms and conditions of the insurance policy. Reliance has also been placed on a circular of the Ministry of Road Transport and Highways, Government of India dated 16.04.2018 wherein the 2 categories of light motor vehicle licenses have been done away with. The relevant extract of the Impugned Award is below:

“26. Now, the question which arises for determination is as to which of the respondents is liable to pay the compensation amount. Counsel for insurance company tried to avoid the liability of insurance company on the ground that there was breach of terms and conditions of insurance policy on the part of insured as the respondent no. 1 was not having valid and effective DL in respect of TSR at the time of accident. Thus, the insurance company is not liable to indemnify the insured and is not liable to pay any compensation to the petitioners. In support of his aforesaid contention, he heavily relied upon copy of AIR (Ex. PW1/A colly) more particularly copy of DL of R-1 filed alongwith AIR.

27. In order to appreciate the aforesaid submission, it would be relevant to refer to the relevant document i.e. DL (which is part of AIR Ex. PW1/A colly) in the name of respondent no. 1. The perusal of copy of DL of respondent no. 1 Sh. Rakesh Kumar, would show that said DL was issued in respect of Motorcycle and LMV(Comm) having validity upto 20.08.2009(date of accident being 20.07.09). The offending vehicle is TSR and copy of its RC as available on record would show that it was having laden weight of 975 kq. That being so, it falls in the category of LMV as per definition contained in Section 2(21) of M.V. Act.

28. Now, the question arises as to whether it would still be termed as fundamental breach in the terms and conditions of insurance policy on the part of insured when offending vehicle is TSR and respondent no. 1 is proved to be having valid and effective DL for LMV(Comm) as on the date of accident. The position in law has been settled by Hon'ble Supreme Court of India in "Mukund Dewangan Vs. Oriental Insurance Company Ltd.", 2017 (7) SCALE 731, wherein it has been held that even where the driver



was holding a driving licence which was valid for LMV, whereas the vehicle involved is light goods vehicle (LGV), the insurance company is not entitled to any recovery rights. Similar view has been taken by Hon'ble Delhi High Court in "New India Assurance Company Limited Vs. Subhash Rastogi & Ors.", MAC APP No. 438/2009 decided on 25.07.17 and in another decision in the case of " Ram Narayan Verma Vs. Rajani & Ors. (Reliance General Insurance Company Ltd.), MAC APP No. 478/2017 decided on 27.07.17.

29. Furthermore, the difference between the category of LMV(NT) and that of LMV (Commercial) has been done away with by Ministry of Road Transport and Highways, Government of India vide its Circular No. RT-11021/44/2017-MVL dated 16.04.2018, while following the dictum of law laid down by Hon'ble Apex Court in Mukund Dewangan's case (supra). That being so, the insurance company is held liable to pay the compensation amount to the petitioners. It cannot be allowed to escape from its liability to indemnify the insured so far as payment of compensation amount is concerned. Hence, it is held that the insurance company is liable to pay the compensation amount as it is duty bound to indemnify the insured under the law. Issue no. 2 is decided accordingly.”

[Emphasis supplied]

11. An examination of the provisions of Section 10 of the MV Act shows that licenses are issued in 7 categories in terms of Section 10 of the MV Act. Section 10(2)(d) of the MV Act provides that a license can be issued to drive a motor vehicle categorised as a light motor vehicle. Section 2(21) of the MV Act defines light motor vehicle to be a transport vehicle category which when unladen, has a weight of less than 7,500 kgs. Section 2(21) and Section 10(2) of the MV Act are set out below:

“2. Definitions.—In this Act, unless the context otherwise requires,—

(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;

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10. **Form and contents of licences to drive.**—(1) Every learner's licence and driving licence, except a driving licence issued under section 18, shall be in such form and shall contain such information as may be prescribed by the Central Government.



(2) A learner's licence or, as the case may be, driving licence shall also be expressed as entitling the holder **to drive a motor vehicle of one or more of the following classes, namely:—**

- (a) motor cycle without gear;
- (b) motor cycle with gear;
- (c) invalid carriage;
- (d) **light motor vehicle;**
- [(e) transport vehicle;]
- (i) road-roller;
- (j) motor vehicle of a specified description."

[Emphasis supplied]

12. The Supreme Court in the case of ***Mukund Devgan v. Oriental Insurance Company*** has held that a person holding a LMV driving license can drive vehicles of all classes provided they fall in the category of light motor vehicles. It is apposite to extract the relevant part of the judgment as below:

"59. Section 10 of the Act requires a driver to hold a licence with respect to the class of vehicles and not with respect to the type of vehicles. In one class of vehicles, there may be different kinds of vehicles. If they fall in the same class of vehicles, no separate endorsement is required to drive such vehicles. As light motor vehicle includes transport vehicle also, a holder of light motor vehicle licence can drive all the vehicles of the class including transport vehicles. It was pre-amended position as well the post-amended position of Form 4 as amended on 28-3-2001. Any other interpretation would be repugnant to the definition of "light motor vehicle" in Section 2(21) and the provisions of Section 10(2)(d), Rule 8 of the 1989 Rules, other provisions and also the forms which are in tune with the provisions. Even otherwise the forms never intended to exclude transport vehicles from the category of "light motor vehicles" and for light motor vehicle, the validity period of such licence hold good and apply for the transport vehicle of such class also and the expression in Section 10(2)(e) of the Act "Transport Vehicle" would include medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle, heavy passenger motor vehicle which earlier found place in Sections 10(2)(e) to (h) and our conclusion is fortified by the syllabus and rules which we have discussed.

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60.4. The effect of amendment of Form 4 by insertion of “transport vehicle” is related only to the categories which were substituted in the year 1994 and the *procedure to obtain driving licence for transport vehicle of class of “light motor vehicle” continues to be the same as it was and has not been changed and there is no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect.*”

[Emphasis Supplied]

13. As can be seen from above, there is no specific category set out for a three wheeler or TSR or auto rickshaw. The categories that are given under the MV Act are for a light motor vehicle. Concededly, the gross vehicle weight of a three wheeler auto rikshaw would be less than 975 kgs or less, so as to fall within the meaning of a light motor vehicle as is defined in Section 2(21) of the MV Act.

14. Since there is no separate license category set out for the three wheeler or TSR, this Court is unable to interdict the finding of the learned MACT.

15. The Petition is accordingly dismissed. The pending Application also stands closed.

16. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 7, 2025

g.joshi/pa

Click here to check corrigendum, if any