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

\+ **<u>MAC.APP. 867/2019 & CM APPL. 48730/2019, CM APPL. 48733/2019</u>**

ORIENTAL INSURANCE CO LTD .....Appellant

Through: Mr. Abhishek Gola & Mr. Anshul Mehral, Advs.

versus

AJAB SINGH & ORS .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

<u>O R D E R</u>

% **12.03.2025**

1. The learned counsel for the appellant/ Insurance Company submits that the issue raised in the present appeal has been decided against them by the Hon'ble Apex Court in the case of ***Bajaj Allianz General Insurance Co. Ltd. v. Rambha Devi :*** **(2019) 12 SCC 816**.

2. The present appeal was filed challenging the impugned award dated 29.07.2019 passed by the learned Motor Accident Claims Tribunal, Saket Courts, New Delhi, on the ground that the driver of the offending vehicle was not holding a valid driving licence at the time of accident. The driver at the time of the accident possessed the motor vehicle license permissible for driving LMV (Light Motor Vehicle), whereas the accident occurred while driving LGV (Light Goods Vehicle).

3. The Constitution Bench of Hon'ble Apex Court in the case of ***Allianz General Insurance Co. Ltd. v. Rambha Devi*** (supra), 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, e-rickshaws, 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."

4. In terms of the law laid down by the Hon'ble Apex Court, the insurance company cannot avoid the liability to pay on the ground that the driver of the offending vehicle though was holding a driving license for LMV but was not eligible to drive LGV for the purpose of liability under the Motor Vehicles Act.

5. In view of the above, there is no merit in the present appeal. The appeal is, therefore, dismissed.

6. Statutory amount be released in favour of the appellants.

AMIT MAHAJAN, J

MARCH 12, 2025
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