



2026:DHC:121



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

% *Date of decision: 06th January 2026*

+ **MAC.APP. 234/2021**

JAI KUMAR & ANR.

.....Appellants

Through: Mr. Tarique Siddiqui, Advocate with
Mr. Sunil Verma, Mr. Abhishek
Kumar, Mr. R. Ahmed and Mohd.
Faisal Khan, Advocates.

versus

THE ORIENTAL INSURANCE CO. LTD. & ORSRespondents

Through: Mr. JPN Shahi, Advocate (*through
VC*)

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J: (ORAL)

CM APPL. 380/2026 (for disposal of the present appeal)

1. This application has been filed by appellant seeking disposal of the present appeal in terms of the decision passed by the Supreme Court in the case of *Bajaj Alliance General Insurance Co. Ltd. v. Rambha Devi*, (2025) 3 SCC 95.

2. The matter had been kept on board by this Court pursuant to filing of the appeal, considering that the Constitution Bench of the Supreme Court was seized of the matter which had been referred for consideration pursuant



to the decision of the Supreme Court in *Mukund Dewangan v Oriental Insurance Co. Ltd.*, 2017 14 SCC 663.

3. The decision has now been rendered by the Constitution Bench of the Supreme Court being in favour of the appellants herein; accordingly, this present application has been filed.

4. The background facts are that in a road accident which occurred on 14th August 2014 at 8.15 P.M. near *Shivalik Road, New Delhi*, one *Brij Kishore Mahto* (claimant/respondent no. 4 herein) had sustained injuries allegedly due to rash and negligent driving of vehicle no. DL 1Y B 8717 by one *Phool Badan* (respondent no.3 herein). A claim petition was filed and the Detailed Accident Report (**DAR**) was submitted.

5. The said vehicle was registered in the name of one *Surinder Singh* (respondent no. 2 herein) though it had been sold to *Jai Kumar and Ravi Kumar* (appellants herein) but the documents of transfer had not been executed since *Form-29* was not completed.

6. The award was passed on the claim of *Brij Kishore Mahto* on 30th November 2017 granting compensation of *Rs. 8,69,100/-* in his favour along with interest at 9% per annum from the date of filing of the DAR till realization.

7. Before the MACT, the insurance company had raised an objection that they would have a right of recovery against appellants/owners considering that the driver *Phool Badan* was driving the vehicle with a license for LMV-NT and not for a commercial vehicle.

8. It was an admitted position that the vehicle was being driven as a tourist taxi and therefore, the insurance companies' contention that their policy would only cover a situation where the driver possessed an effective



and valid license to drive a commercial vehicle, would exonerate them from any liability.

9. This contention was accepted and the MACT directed that the insurance company shall pay the compensation awarded to claimant, but shall have the right to recover the same from the *Phool Badan* (driver) and the appellants herein.

10. Appellants, therefore, filed an appeal before this Court which has been subsisting on the Board, basing their claim on the decision of the Supreme Court in *Mukund Dewangan* (*supra*).

11. The decision was in context of an amendment in the Motor Vehicles Act, 1994 (*'MV Act'*) inserting *Section 10 (2) (e)* in the Act introducing the concept of a *'transport vehicle'*.

12. The *Section 2 (21) of the MV Act* provided a definition for Light Motor Vehicle (*'LMV'*) which is extracted as under for reference:

“S. 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;”

13. *Section 10 of MV Act*, which provides for form and contents of licenses to drive, had provided in sub-Section 2 as under:

“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) motorcycle without gear;
- (b) motorcycle with gear;
- (c) invalid carriage;
- (d) light motor vehicle;
- (e) medium goods vehicle;
- (f) medium passenger vehicle;
- (g) heavy goods vehicle;
- (h) heavy passenger vehicle.”

14. Thereafter, amendment made *vide* Act 54 of 1994 w.e.f. 14th November 1994 substituted clause (e) to (h) of *Section 10(2) MV Act* with *Section 10(2)(e)* relating to ‘transport vehicle’.

15. The issue arose in *Mukund Dewangan (supra)*, whether a driver who has a license to drive LMV, needs to obtain additional endorsement to drive a ‘transport vehicle’ under amended *Section 10(2)(e)*. The Supreme Court reached a conclusion that the definition of light motor vehicle as in *Section 2 (21) MV Act*, would include a transport vehicle if it is within the weight prescribed in *Section 2 (21)* read with *Sections 2 (15)* and *Section 2 (48)* of the MV Act. Such transport vehicles were not excluded from the definition of light motor vehicles by virtue of the Amendment Act 54 of 1994.

16. More specifically, the conclusions drawn by the Supreme Court in *paragraph 60* are extracted as under:

“60. Thus, we answer the questions which are referred to us thus:

60.1. “Light motor vehicle” as defined in Section 2(21) of the Act would include a transport vehicle as per the weight prescribed in Section 2(21) read with Sections 2(15) and 2(48). Such transport vehicles are not excluded from the definition of the light motor vehicle by virtue of Amendment Act 54 of 1994.



60.2. A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg would be a light motor vehicle and also motor car or tractor or a roadroller, “unladen weight” of which does not exceed 7500 kg 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 roadroller, 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 of 1994 and 28-3-2001 in the form.

60.3. The effect of the amendment made by virtue of Act 54 of 1994 w.e.f. 14-11-1994 while substituting clauses (e) to (h) of Section 10(2) which contained “medium goods vehicle” in Section 10(2)(e), “medium passenger motor vehicle” in Section 10(2)(f), “heavy goods vehicle” in Section 10(2)(g) and “heavy passenger motor vehicle” in Section 10(2)(h) with expression “transport vehicle” as substituted in Section 10(2)(e) related only to the aforesaid substituted classes only. It does not exclude transport vehicle, from the purview of Section 10(2)(d) and Section 2(41) of the Act i.e. light motor vehicle.

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)

17. For purposes of reference, the reasoning for the said conclusion was provided, *inter alia* in *paragraph 17 and 18* of the said decision. Since there were differing views of various Benches on this issue, a reference was made by a three Judge Bench of the Supreme Court in ***Bajaj Alliance General Insurance Company Ltd. vs Rambha Devi and Ors.***, (2023) 4 SCC 723, to a Constitutional Bench on *whether a person holding a driving license in respect of LMV could on the strength of same license be entitled to drive a transport vehicle of LMV class having unladen weight not exceeding 7500 kgs.*

18. The Constitution Bench of the Supreme Court deliberated upon the matter and returned an opinion by virtue of the decision reported as (2025) 3 SCC 95, upholding the view taken in ***Mukund Dewangan*** (*supra*) and noting as under:

“181. *Our conclusions following the above discussion are as under:*

181.1. *A driver holding a licence for light motor vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7500 kg, is permitted to operate a “transport vehicle” without needing additional authorisation 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.

181.2. The second part of Section 3(1), which emphasises 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.

181.3. The additional eligibility criteria specified in the MV Act and the MV Rules generally for driving “transport vehicles” would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7500 kg i.e. “medium goods vehicle”, “medium passenger vehicle”, “heavy goods vehicle” and “heavy passenger vehicle”.

181.4. The decision in Mukund Dewangan (2017) [Mukund Dewangan v. Oriental Insurance Co. Ltd., (2017) 14 SCC 663] 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 the MV Rules were not considered in the said judgment.”

(emphasis supplied)

19. It would, therefore, transpire that the position of law as opined by the Supreme Court, would be that driver holding a license for LMV under *Section 10 (2) (d)* of the *MV Act* for a vehicle with a gross vehicle weight under 7500 kgs would be permitted to operate a transport vehicle without needing an additional authorisation.

20. This position of law runs completely in favour of the grounds taken in the appeal by appellants herein, as narrated above, and against the insurance company with respect to their exoneration from liability.

21. *Mr. JPN Shahi*, counsel for insurance company/respondent no.1



appears *through* VC and placed his submissions in the matter.

22. Considering the opinion of the Constitutional Bench in *Bajaj Alliance General Insurance Co. Ltd. v. Rambha Devi (supra)*, there can be no question of insurance companies' contention being entertained any further, and therefore, exoneration from liability as provided in *paragraph 26* of the impugned order, cannot be sustained. *Paragraph 26* of the impugned order is extracted as under:

“26. Balancing the “twin interest” of the insurance Company at one hand and that of the third party i.e petitioner for whose benefit the present legislation was brought on the statute book, it is directed that the Insurance Company shall pay the compensation awarded to the petitioner within the time given in this award and shall have the right to recover the same from respondent no. 1,3 and 4”

(emphasis added)

23. Accordingly, the award to the extent of *paragraph 26* which provides the right of recovery to the insurance company is set aside and the appeal to that extent is allowed.

24. It is informed that the compensation as awarded by MACT Award, has already been paid to the claimants.

25. Therefore, the appeal is disposed of in above terms.

26. Pending applications (if any) are also rendered infructuous.

27. Judgment be uploaded on the website of this Court.

ANISH DAYAL, J

JANUARY 6, 2026/RK/zb