(2025) 09 GUJ CK 1069

In the Gujarat High Court

Case No : R/First Appeal No. 864 Of 2014

National Insurance Company Ltd — APPELLANT

Vs

Chanchiben Wd-O Saradarji V Thakor & Ors. — RESPONDENT

Date of Decision : 16-09-2025

Acts Referred:
Motor Vehicles Act, 1988 — Section 2(21), 3(1), 10(2)(d), 10(2)(e)

Citation : (2025) 09 GUJ CK 1069

Hon'ble Judges : J. L. Odedra, J

Bench : Single Bench

Advocate : Palak H Thakkar, R.K.Mansuri

Final Decision : Dismissed

Judgement

J. L. Odedra, J

1. The present appeal arises from the judgment and award dated 04.05.2013 passed by the Motor Accident Claim Tribunal (Auxiliary), Ahmedabad. Vide the said judgment and award, the petition was partly-allowed with a direction that the original claimants were entitled to recover a sum of Rs.4,50,000/- from the opponents, jointly and severally with simple interest at the rate of 9% per annum from the date of petition till realization along with proportional cost.

2. The accident occurs on the fateful day, Shambhuji Sardarji V. Thakore (the deceased) was walking down to his home at village Parbatpura, at which time he ended up being hit by Tempo, bearing Registration No.GBQ-6731, which being driven in rash and negligent manner. In short, the deceased was a pedestrian and it was the case of the claimants - his heirs that the deceased was walking on the left side of the road.

3. The challenge to the present judgment and award is on the ground that the concerned driver of the tempo, bearing Registration No.GBQ-6731, was not holding a valid and effective licence inasmuch, as there was no endorsement on the licence for him to drive a medium goods vehicle. Resultantly, it is the case of

the appellant - Insurance Company that it has been wrongly held to be liable to pay the compensation to the original claimants.

4. Heard learned advocate Mr. Palak Thakkar appearing for the appellant. He has vehemently submitted that the finding of the learned Tribunal, in holding the Insurance Company liable despite rendering finding in para 26, whereat, after quoting the judgment of the Division Bench of this Court in First Appeal No.1549 of 2012 with First Appeal No.1550 of 2012, dated 06.12.2012, the learned Tribunal has held that mere non-possession of the licence, by itself, is not a ground which is available to the insurer to disown its liability and that the Insurance Company ought to hold that the non-possession of the valid licence was a reason of causing of the accident. It was thus submitted that the finding of the learned Tribunal that there was no valid and effective licence, is fortified, as has been submitted in the present appeal. It was thus submitted that the Insurance Company may be exonerated on account of the said fact.

5. On the contrary, learned advocate Mr.R.K.Mansuri appearing for the original claimants - respondent Nos.1 to 4 has submitted that the judgment is just and it does not require any interference. He has relied on the judgment of Hon'ble Supreme Court in case of Bajaj Alliance General Insurance Company Limited vs. Rambha Devi and others - 2024 INSC 840. He has submitted that the said issue agitated qua license is no longer res integra and that therefore, the appeal is liable to fail.

6. Having heard learned advocate for the respective parties, the following point of determination arises for the consideration by this Court :

"(A) Whether lack of endorsement enabling the driver to drive a transport vehicle is sufficient to absolve the Insurance Company of its liability to honour the compensation awarded by the learned Tribunal?"

7. At the outset, this Court proposes to quote the relevant observations of Hon'ble Supreme Court made in Rambha Devi (supra) :

"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."

8. In light of the aforesaid quoting, it is plain that irrespective of endorsement on the licence, more particularly when the vehicle is below unladen weight of 7500 Kgs., the lack of endorsement, so as to enable the driver to drive a transport vehicle by itself is not fatal and would not absolve the insurer from its liability. In the present case, the tempo, obviously, is not be more than 7500 Kgs. and therefore, the ratio laid down in Rambha Devi (supra) would be squarely applicable to the facts of the present case.

9. Hence, the present appeal is without merit and is liable to be rejected. Accordingly, the appeal stands disposed of in aforesaid terms. Registry is directed to send back the record and proceedings to the concerned Tribunal, forthwith.