

(2017) 09 RAJ CK 0006
In the Rajasthan High Court
Case No : 416 of 2015

Shriram Seeds Pvt. Ltd. Shriganganagar	APPELLANT
Vs	
Smt. Chhawli W/o Sh. Raja Ram	RESPONDENT

Date of Decision : 04-09-2017

Acts Referred:

Citation : (2017) 09 RAJ CK 0006

Hon'ble Judges : Arun Bhansali

Bench : SINGLE BENCH

Advocate : Sunil Beniwal, Anil Kaushik

Judgement

1. An application has been filed by the appellants seeking preponement of the date fixed as per directions given by this Court.

2. For the reasons indicated in the application, the same is allowed.

3. The matter is taken up for hearing.

This appeal is directed against the judgment and award dated 17.12.2014 passed by the Motor Accident Claims Tribunal, Raisinghnagar ("the Tribunal"), whereby, the Tribunal has awarded a sum of Rs. 50,36,900/- as compensation to the claimants, however, the Insurance Company has been exonerated.

4. The Tribunal while deciding the issue No.2 came to the conclusion that the vehicle in question i.e. Mahendra Maximo (Tempo) was being used for the commercial purposes and as the

driver was in possession of driving licence authorized to drive "light motor vehicle" only and as the vehicle was a "light transport vehicle", for violation of policy conditions, the Insurance Company was not liable for payment of compensation.

5. The issue raised by the appellant in the present appeal pertains to the eligibility of the driver holding driving licence authorized to drive "light motor vehicle" to drive "light transport vehicle" or "light commercial vehicle", which issue is now squarely covered by Larger Bench judgment of Hon"ble Supreme Court in the case of Mukund Dewangan v. Oriental Insurance Company Ltd. & Ors .: Civil Appeal No.5826/2011, decided on 3.7.2017, wherein, it has been laid down as under:-

"46. 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 Rules

of 1989, 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 section 10(2)(e) to (h) and our conclusion is fortified by the syllabus and rules which we have discussed. Thus we answer the questions which are referred to us thus:

(i) "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 section 2(15) and 2(48). Such transport vehicles are not excluded from the definition of the light motor vehicle by virtue of Amendment Act No.54/1994.

(ii) 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 road roller, "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 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 28.3.2001 in the form.

(iii) The effect of the amendment made by virtue of Act No.54/1994 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.

(iv) 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."

6. In view of the fact that the issue raised in the present appeal is covered by Larger Bench judgment of Hon"ble Supreme Court in the case of Mukund Dewangan (supra), the finding recorded by the Tribunal on issue No.2, cannot be sustained and the same is, therefore, set aside.

7. Consequently, the appeal filed by the appellants -owner & driver is allowed. The award dated 17.12.2014 is modified to the extent that alongwith the owner and driver, the Insurance Company would also be liable to make payment of amount of compensation to the claimants.

8. The needful may be done by the Insurance Company within

a period of six weeks from the date of this Judgment.