

(2012) 05 DEL CK 0275

In the Delhi High Court

Case No : MAC. APP. No. 144 of 2006

United India Insurance Co. Ltd.

APPELLANT

Vs

Swaran Lata Parida and Others

RESPONDENT

Date of Decision : 07-05-2012

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 14

Citation : (2012) 05 DEL CK 0275

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : Vishnu Mehra with Ms. Shakshi Gupta, for the Appellant;

Final Decision : Dismissed

Judgement

G.P. Mittal, J.—The Appellant United India Insurance Co. Ltd. impugns a judgment dated 15.10.2005 passed by the Motor Accident Claims Tribunal(the Claims Tribunal)whereby while awarding a compensation of Rs. 3,46,400/-, the Appellant's contention that the driver Umesh Chand did not possess a valid driving licence to drive the offending vehicle No.HR-26A-8686(a tempo) was rejected. The learned counsel for the Appellant contends that there is a distinction between LMV (transport) and LMV(non-transport). Since the Respondent No.5 (the driver) possessed a licence to drive only LMV (non-transport) and not a transport vehicle, he was not competent to drive a tempo and thus, the Appellant was entitled to be exonerated of its liability to indemnify the insured. In any case, the Appellant was entitled to recovery rights.

2. In this case, the accident took place on 01.02.1996. The Central Motor Vehicles Rules 1989, Form 4 was amended with effect from 28.03.2001. The Appeal is squarely covered by a report of the Supreme Court in National Insurance Company Ltd. Vs. Annappa Irappa Nesaria and Others, . The Supreme Court held that in the Form 4, transport vehicle was substituted for medium goods vehicle and heavy goods vehicle by GSR 221 (E) with effect from 28.03.2001. Before that amendment, light motor vehicle included a light

passenger carriage vehicle as well as light goods carriage vehicle. Paras 17 to 20 of the report are extracted hereunder:

17. Rule 14 prescribes for filing of an application in Form 4, for a licence to drive a motor vehicle, categorizing the same in nine types of vehicles.

18. Clause (e) provides for "transport vehicle" which has been substituted by GSR 221(E) with effect from 28-3-2001. Before the amendment in 2001, the entries "medium goods vehicle" and "heavy goods vehicle" existed which have been substituted by "transport vehicle". As noticed hereinbefore, "light motor vehicles" also found place therein.

19. "Light motor vehicle" is defined in Section 2(21) and, therefore, in view of the provision, as then existed, it included a light transport vehicle. Form 6 provides for the manner in which the licence is to be granted, the relevant portion whereof reads as under:

Authorisation to drive transport vehicle

Number.....

Date

Authorised to drive transport vehicle with effect from...

Badge number.....

Signature

Designation of the licensing

authority

Name and designation of the authority who Conducted the driving test.

20. From what has been noticed hereinbefore, it is evident that "transport vehicle" has now been substituted for "medium goods vehicle" and heavy goods vehicle." A driver who had a valid licence to drive a light motor vehicle, therefore, was authorized to drive a light goods vehicle as well.

3. It is not in dispute that the Respondent No.5 did possess a valid licence to drive an LMV on the date of the accident i.e. 01.02.1996 which entitled him to drive the light goods carriage vehicle as well, which is the vehicle involved in the accident.

4. The Appeal is devoid of any merit; the same is accordingly dismissed. The statutory amount of Rs. 25,000/- shall be refunded to the Appellant Insurance Company.