

HIGH COURT OF BOMBAY**Date of Decision: 29th February 2024****Bench : SHIVKUMAR DIGE, J.**

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.100 OF 2021

MRS. NIRANJANI CHANDRAMOULI ...APPELLANT**VERSUS****AMIT GANPATHI SHET****BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD. ...RESPONDENT(S)****Legislation and Rules:**

Sections 2(16), 2(21), 7, and 10(2) of the Motor Vehicles Act, 1988.

Subject: Appeal challenging the Motor Accident Claims Tribunal's decision regarding the driving license classification in a vehicle accident claim.**Headnotes:**

Driving License Classification Dispute - Driver possessing Heavy Goods Vehicle (HGV) license while operating Light Motor Vehicle (LMV) at accident time - Tribunal's finding of violation of MV Act Section 10(2) leading to breach of insurance policy terms [Paras 1-6].

Eligibility of Driver with HGV License to Drive LMV - Analysis and Ruling - Appeal against Tribunal's decision finding breach of insurance terms due to driver's HGV license while driving LMV. The High Court holds that a driver with a Heavy Goods Vehicle (HGV) license can drive a Light Motor Vehicle (LMV), setting aside Tribunal's order. Cites difference in vehicle categorization but acknowledges the progression from LMV to HGV licensing, deeming the driver eligible to operate the LMV. [Paras 7, 8]

Insurance Company's Liability in Vehicle Accident - Decision - Overrules Tribunal's decision exonerating the Insurance Company based on alleged license ineligibility. Establishes the liability of the Insurance Company for compensation as per policy terms, as the vehicle was insured at the accident time and no breach of policy terms occurred. [Paras 6, 8]

Appeal Outcome - Order Issued - High Court allows the appeal, instructs the Insurance Company not to recover any compensation amount from the vehicle owner if paid to claimants. Appellant permitted to withdraw the statutory amount deposited before the Court. [Para 8]

Referred Cases:

- Pappu & Others v. Vinod Kumar Lama & Others [2018(3) SCC 208].
- National Insurance Company Ltd v. Vidhyadhar Mahariwala & Ors [2008(12) SCC 701].
- Oriental Insurance Co. Ltd v. Zeharulnisha [2008(12) SCC 385].

Representing Advocates:

Mr. Saumen S. Vidyarthi, Ms. Ishita Bhole, and Mr. Kissen Biswal for the Appellant.

Mr. D.S. Joshi for Respondent No.2.

ORAL JUDGMENT :-

. The issue involved in this Appeal is at the time of the accident driver of the offending vehicle was holding license of Heavy Goods Vehicle ('HGC' for short) whereas he was driving Light Motor Vehicle ('LMV' for short).

2. It is contention of the learned counsel for the Appellant-Owner of the offending vehicle that, at the time of the accident driver of the offending vehicle was holding driving license of HGV vehicle and he was driving LMV vehicle i.e. offending car. The Tribunal has held that, as driver was not holding license of driving LMV vehicle. Hence, there is breach of Terms and Conditions of the Insurance Policy and exonerated the Insurance Company from paying compensation and had directed the Insurance Company to pay the compensation to the Claimants and recover it from the Appellant, which is erroneous. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Insurance Company that as per provisions of the Motor Vehicle Act ('M.V. Act' for short) no person shall drive motor vehicle in any public place unless he hold an effective valid driving license. Admittedly, at the time of accident the driver of the offending vehicle was holding license of HGV vehicle and he was driving LMV vehicle. The learned counsel further submitted that as per Section 10 of the M.V. Act classification of vehicles is done LMV is categorized in one category and HGV vehicle is categorized in other category. Though the driver of the offending vehicle was holding HGV license it does not mean that he can drive LMV vehicle. He had to obtain license for driving the LMV vehicle. The Tribunal has passed well reasoned order and no interference is required in it. He relied on following judgments:

(i) Pappu & Others V/s. Vinod Kumar Lama & Others [2018(3)-SCC-208].

(ii) National Insurance Company Ltd V/s. Vidhyadhar Mahariwala & Ors [2008(12) SCC 701]. (iii) Oriental Insurance Co. Ltd V/s. Zeharulnisha [2008(12) SCC 385].

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Mumbai.

5. Admittedly, at the time of the accident driver of the offending vehicle was holding driving license of HGV vehicle and he was driving LMV vehicle i.e. offending car.

6. While dealing with the issue of license the Tribunal has observed that, at the time of the accident the driver was not holding license. There was violation of Section 10(2) of the M.V. Act, hence, there is breach of Terms and Conditions of the Insurance Policy and the Tribunal has passed pay and recovery order.

7. In my view, as per definition of the HGV as per Section 2(16) of M.V. Act "heavy goods vehicle" means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which, exceeds 12,000 kilo grams. As per Section 2(21) "light motor vehicles" 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 kilo grams. So there is difference between HGV and LMV about carrying of weight. Section 7 of M.V. Act, states about Restriction on the granting of learner's license for certain vehicles it reads.

(1) No person shall be granted a learner's licence to drive a transport vehicle unless he has held a driving licence to drive a light motor vehicle for at least one year....

(2) No person under the age of eighteen years shall be granted a learner's license to drive a motor cycle without gear except with the consent in writing of the person having the care of the person desiring the learners license.

This Section prescribes one year minimum driving experience in light motor vehicle before a person issuing driving license to drive a transport vehicle. Admittedly, in the present case the driver of offending vehicle was holding driving license for heavy good vehicle. Though it is categorized in different category, as per Section 10 but after getting experience in driving LMV, the license in HGV is issued. So possessing the license of HGV and driving the LMV vehicle cannot be a ground to say that the driver was not eligible to drive

the LMV vehicle. Hence I set aside the observations of the Tribunal that there was breach of Terms and Conditions of the Insurance Policy. As at the time of the accident the offending vehicle was insured with the Respondent-Insurance Company. The Respondent-Insurance Company is liable to pay the compensation as fixed by the Tribunal.

8. In view of above, I pass following order.

ORDER

- (i) The Appeal is allowed.
- (ii) The Respondent-Insurance Company shall not recover the compensation amount from owner of the vehicle, if paid, to the Claimant's.
- (iii) The Appellant is permitted to withdraw the statutory amount deposited before this Court alongwith interest, as per Rules.
- (iv) All pending Civil and Interim Applications are disposed of.

© All Rights Reserved @ LAWYER E NEWS

*Disclaimer: Always compare with the original copy of judgment from the official website.