

(2018)2 SCeJ 1155

SUPREME COURT OF INDIA

Present : Justice Kurian Joseph and Justice Mohan M. Shantanagoudar, JJ.

M/S. BAJAJ ALLIANCE GENERAL INSURANCE CO.LTD.

versus

RAMBHA DEVI & ORS.

Civil AppealNo(s). 841/2018 (for admission and IA No.105504/2017-exemption from filing O.T.)

3 May, 2018

Motor Vehicles Act, 1988, Section 2(21) - Central Rules Motor Vehicles Rules, 1989 - Whether a person licensed to drive a light motor vehicle is ipso facto entitled to drive a transport vehicle in that category, decided by a Bench of three Judges in in *Mukund Dewangan Vs. Oriental Insurance Company Ltd. (2017) 14 SCC 663* – Submission that in Section 4, 7, 14 of the MVA and and Rule 5, 31 of the Central Rules Motor Vehicles Rules, 1989 and other provisions, there does not appear to be any exception carved out for transport vehicles which come in the light motor vehicle category - Since the prayer is for the reconsideration of *Mukund Dewangan (supra)*, we are of the view that it is only appropriate that the prayer itself, in light of some of the submissions we have noted above, be considered by a larger Bench of 3 Judges.

UPON hearing the counsel the Court made the following

O R D E R

1. Whether a person licensed to drive a light motor vehicle is ipso facto entitled to drive a transport vehicle in that category, is the question to be considered in these cases. We find that the issue has been considered by this Court by a Bench of three Judges in ***Mukund Dewangan Vs. Oriental Insurance Company Ltd.*** reported in (2017) 14 SCC 663.

2. The conclusions in ***Mukund Dewangan (supra)***, as summarised by the Court, read as follows:

“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)

3. It is the submission of Shri Jayant Bhushan and Shri Joy Basu, learned senior counsel that certain distinct provisions pertaining specifically to transport vehicles have unfortunately not been brought to the notice of the Court.

1. Section 4(1) of the Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”) provides that the minimum age of holding a driving licence for a motor vehicle is 18 years. Section 4(2) provides that no person under the age of 20 years shall drive a transport vehicle in a public place.

2. Section 7 provides that no person can 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.

3. Section 14 deals with the currency of licence to drive motor vehicles. A driving licence issued or renewed under this Act, in case a licence to drive a transport vehicle will be effective for a period of three years. The proviso to Section 14(2)(a) provides that in case of a licence to drive a transport vehicle carrying goods of dangerous or hazardous nature, it shall be effective for a period of one year. However, in case of any other licence, it would be effective for a period of 20 years.

4. Rule 5 of The Central Rules Motor Vehicles Rules, 1989 (hereinafter referred to as “the Rules”) makes a medical certificate issued by a registered medical practitioner mandatory for in case of a transport vehicle, whereas for a non-transport vehicle, only a self-declaration is sufficient.

5. Rule 31, specifically sub-rules (2), (3) and (4) provide for a difference in the syllabus and duration of training between transport and non-transport vehicles.

4. It is also submitted that in these provisions, there does not appear to be any exception carved out for transport vehicles which come in the light motor vehicle category.

5. While the counsel have referred to various other provisions of the Act and the Rules, we have only referred to a few, very significant submissions. Since the prayer is for the reconsideration of **Mukund Dewangan** (supra), we are of the view that it is only appropriate that the prayer itself, in light of some of the submissions we have noted above, be considered by a larger Bench of 3 Judges.

We, therefore, direct the Registry to place the papers before Hon’ble The Chief Justice of India for appropriate orders.

SS
