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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-2209-2014 (O&M)
Date of decision: 09.09.2025

Yogesh Kumar

...Appellant

Versus

IFFCO Tokyo General Insurance Company Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arjun Atri, Advocate for the appellant.

Mr. Punit Jain, Advocate
for respondent No.1-Insurance Company.

VIKAS BAHL, J. (ORAL)

CM-7836-CII-2014

1. This is an application filed under Section 5 of the Limitation Act for condonation of delay of 67 days in filing the appeal.

2. For the reasons stated in the application which is duly supported by an affidavit, the present application is allowed and delay of 67 days in filing the present appeal is condoned.

Main case

1. The present appeal has been filed by the owner/driver of the offending vehicle challenging the finding on issue No.3 given by the Motor Accident Claims Tribunal, Gurgaon (hereinafter to be referred as “the Tribunal”) vide its award dated 13.11.2013.

**BRIEF BACKGROUND OF THE CASE:-**

2. In the present case, respondent Nos.2 and 3-claimants had filed the claim petition for seeking compensation on account of death of their son in a motor vehicular accident which took place on 25.05.2012. The deceased-Ajay Singh was stated to be going on a motorcycle and the present appellant was stated to be driving the offending vehicle Max IMO Mahendra and Mahendra bearing registration No.HR-47B-4374. On 10.12.2012, the Tribunal had framed the following issues:-

“1. Whether the accident in question was caused by respondent no. 1 while driving vehicle bearing registration no. HR-47B 4374 in a rash and negligent manner resulting into the death of Ajay Singh, as alleged ? OPP.

2) If issue no.1 is proved, whether the claimants are entitled to any compensation and if so to what extent and from whom? OPP.

3) Whether respondent no. 2 is not liable to make payment of any compensation on account of alleged violation of terms and conditions of insurance policy? OPR (2)

4) Relief”

3. Under Issue No.1, the Tribunal had observed that the present appellant while driving Max IMO Mahendra and Mahendra vehicle in a rash and negligent manner caused the death of Ajay Singh. The said issue has not been challenged before this Court. Under Issue No.2, the claimants were held entitled to a total amount of compensation of Rs.3,65,000/- along with interest which aspect has also not been challenged before this Court. It has been brought to the notice of this Court that the Insurance Company has already paid the said amount to the claimants and thus, the claimants are not



the necessary parties to be heard before adjudicating the present case. It has also been jointly submitted that only issue which requires adjudication in the present case is as to whether the Insurance Company has a right to recover the amount of compensation from the present appellant, who is the owner and the driver of the offending vehicle. Thus, the challenge is only with respect to the findings on issue No.3.

ARGUMENTS ON BEHALF OF THE APPELLANT:-

4. Learned counsel for the appellant has submitted that the said issue is now squarely covered by the judgment of the Constitutional Bench of the Hon'ble Supreme Court in **M/s Bajaj Alliance General Insurance Co. Ltd. Vs. Rambha Devi and others** reported as **2025(3) SCC 95**. It is submitted that the Hon'ble Supreme Court has now held that the drivers holding the licence for Light Motor Vehicle (LMV) class, under Section 10(2)(d) for vehicles of which the gross vehicle weight is under 7,500 kg, are permitted to operate a 'Transport Vehicle' without needing additional authorization under Section 10(2)(e) of the Motor Vehicles Act, 1988 (hereinafter to be referred as "the MV Act"). It is submitted that in the present case, it is not in dispute that the present appellant was having a driving licence with endorsement of Light Motor Vehicle and same has been exhibited as Ex.R1. It is further submitted that a perusal of the Certificate of Registration Ex.R3 as well as Register of motor vehicle Ex.R4 clearly show that gross weight of the vehicle in question i.e., Max IMO Mahendra and Mahendra was 1800 kg and unladen weight was 950 kg and that since the said vehicle was a "transport vehicle" as defined under Section 2(47) of the MV Act, thus, the driving licence in favour of the



present appellant also permitted him to drive the vehicle in question. It is submitted that the finding of the Tribunal on the said issue No.3 is illegal and against law and violative of the abovesaid judgment of the Hon'ble Supreme Court. It is thus, prayed that finding on issue No.3 be set aside and finding to the effect that respondent No.1-Insurance Company has recovery rights be set aside.

ARGUMENTS ON BEHALF OF RESPONDENT NO.1:-

5. Learned counsel appearing on behalf of respondent No.1-Insurance Company has submitted that when the award was passed by the Tribunal, at that time the law as it stood was that, in case a person has a licence for Light Motor Vehicle, then, in that situation, he would not be permitted to drive a Transport vehicle. It is submitted that the finding of the Tribunal on issue No.3 was in accordance with law as it was prevalent at the said time.

6. On a pointed query raised by this Court, learned counsel for respondent No.1 could not dispute the fact that subsequently, Constitutional Bench of the Hon'ble Supreme Court in the case of *M/s Bajaj Alliance General Insurance Co. Ltd.*, (Supra) has held that in case the gross weight of vehicle was under 7500 kg, then, a person holding the said Light Motor Vehicle licence would be permitted to operate the said Transport vehicle.

ANALYSIS AND FINDINGS:-

7. This Court has heard learned counsel for the appellant as well as learned counsel for contesting respondent No.1-Insurance Company and is of the opinion that the finding on issue No.3 is required to be reversed/set aside as the said issue is no longer res integra and has been authoritatively



held in favour of the present appellant i.e., owner and driver by the Constitutional Bench of the Hon'ble Supreme Court in the case of *M/s Bajaj Alliance General Insurance Co. Ltd.*, (Supra). Relevant portion of the said judgment is reproduced hereinbelow:-

“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.”



A perusal of the above judgment would show that the Constitutional Bench of the Hon'ble Supreme Court had observed that a driver holding a license for Light Motor Vehicle (LMV) class, under Section 10(2)(d) of the MV Act 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. It was further observed that for licensing purposes, LMVs and Transport Vehicles are not entirely separate classes. An overlap exists between the two. The Hon'ble Supreme Court had further clarified that the additional eligibility criteria specified in the MV Act and Motor Vehicles Rules would apply with respect to 'transport vehicles' in case gross vehicle weight exceeds 7,500 kg.

8. In the present case, it is not in dispute that the weight of the vehicle in question i.e., gross vehicle weight of the offending vehicle i.e., Max IMO Mahendra and Mahendra vehicle was 1800 kg and thus, less than 7500 kg. Reference in this regard has been made to the Certificate of Registration Ex.R3 as well as Register of Motor Vehicle Ex.R4 wherein it was specifically stated that gross vehicle weight of the said vehicle was 1800 kg. It is also not in dispute that the present appellant, who is the driver and owner of the said offending vehicle, had a valid driving licence with respect to Light Motor Vehicle and the said driving licence has been duly exhibited on record. The vehicle in question would also come within the definition of 'Transport Vehicle', which as per Section 2(47) of the MV Act would include the public service vehicle, a goods carriage vehicle etc. It is argued before this Court that the Tribunal had decided issue No.3 as per the



law prevalent at the said time. It is a matter of settled law that an appeal is a continuation of the main lis and abovesaid judgment of the Constitutional Bench has declared the law which would fully apply in the present case.

9. Keeping in view the abovesaid facts and circumstances, the present appeal is allowed and the finding on issue No.3 of the Tribunal, to the effect that the respondent No.1-Insurance Company has a right to recover the amount of compensation paid by the Insurance Company to the claimants from the present appellant, is set aside and it is held that Insurance Company has no right to recover the amount from the present appellant.

10. At this stage, learned counsel for the appellant has requested that since the statutory amount of Rs.25,000/- was deposited by the appellant at the time of filing of the appeal thus, the said amount be refunded to the appellant.

11. Office of the Registrar of this Court is directed to refund the amount deposited by the appellant, if any, at the time of institution of the appeal.

12. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

09.09.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No