

CASE DETAILS

M/S. BAJAJ ALLIANCE GENERAL INSURANCE CO LTD.

v.

RAMBHA DEVI AND ORS.

(Civil Appeal No. 841 of 2018)

SEPTEMBER 13, 2023

[DR. DHANANJAYA Y CHANDRACHUD, CJI,
HRISHIKESH ROY, PAMIDIGHANTAM SRI NARASIMHA,
PANKAJ MITHAL AND MANOJ MISRA, JJ.]

HEADNOTES

Issue for consideration: Whether a person holding a driving licence in respect of a “light motor vehicle” could on the strength of the licence be entitled to drive a “transport vehicle of light motor vehicle class” having unladen weight not exceeding 7500 kgs.

Motor Vehicles Act 1988 - Person holding a driving licence in respect of a “light motor vehicle” – Entitlement to drive a “transport vehicle of light motor vehicle class” having unladen weight not exceeding 7500 kgs, on the strength of that licence:

Held: Decision in *Mukund Dewangan*’s case which enables a person holding a licence for a light motor vehicle to drive a transport vehicle on the strength of that licence without a separate transport vehicle licence, does not appear to be in accord with the legislative intent – Any change in the position of law as expressed would have an impact on large number of persons who have obtained insurance and may be driving commercial vehicles with LMV licences relying on *Mukund Dewangan*’s case – Impact of the reversal of the decision on the social sector is a facet which would have to be placed in balance by the policy decisions of the Government – Thus, it would be necessary for the Union Government to have a fresh look at the matter and determine whether a change in the law is warranted bearing in mind the diverse considerations which fall within its remit in making policy choices and decisions – Union Government requested to carry out the exercise within the stipulated period and thereafter, the proceedings would be taken up.

LIST OF CITATIONS AND OTHER REFERENCES

Mukund Dewangan v Oriental Insurance Company Limited (2017) 14 SCC 663 – referred to.

OTHER CASE DETAILS INCLUDING IMPUGNED ORDER AND APPEARANCES

CIVIL APPELLATE/EXTRA ORDINARY JURISDICTION: Civil Appeal No. 841 of 2018.

From the Judgment and Order dated 04.08.2017 of the High Court of Judicature for Rajasthan at Jodhpur in S.B. Civil Misc. Appeal No.5127 of 2011.

With

SLP(C) Nos. 10918, 9604, 9613 of 2018, Diary No(s). 24834, 25256 of 2018, SLP(C) No. 24671 of 2018, Diary No(s). 32753, 32756, 37055, 39059 of 2018, SLP(C) Nos. 426, 505-506 of 2019, SLP(C) No. 17506 of 2018, Diary No(s). 23638, 24137, 24530, 24534 of 2018, SLP(C) Nos. 5958, 8918-8919, 11503-11504 of 2019, SLP(C) No. 8277 of 2020, SLP(C) Nos. 8123-8124 of 2022, SLP(C) Nos. 14645-14646, 35472-35473 of 2017, SLP(C) No. 6055 of 2018, SLP(C) Nos. 18849, 20449, 21547, 23017-23018 of 2019, C.A. Nos. 8001-8002 of 2019, SLP(C) No. 766 of 2020, SLP(C) Nos. 24545, 30601 of 2019, SLP(C) No. 696 of 2021, C.A. Nos. 1477, 842, 1479, 483, 1506, 1478 of 2018, Diary No. 40406 of 2017, C.A. No. 1476 of 2018, Diary No. 41949 of 2017, SLP(C) Nos. 2684-2685, 597, 524 of 2018, Diary No. 2524 of 2018, SLP(C) Nos. 19242-19244 of 2018, Diary No. 23636 of 2018, SLP(C) No. 28906 of 2018, SLP(C) Nos. 13315, 14523-14524 of 2019, Diary No. 37270 of 2017, C.A. No. 1475 of 2018, SLP(C) Nos. 5065, 10459, 9908, 6668 of 2018, Diary No(s). 4869, 6119, 6264 of 2018, SLP(C) Nos. 8816, 9607, 9610, 9612, 9606, 9609 of 2018, Diary No(s). 9963, 9970, 990 of 2018, SLP(C) No. 5193, 5188, 9611, 9608, 9605 of 2018, SLP(C) No. 20221 of 2023

Appearances:

Tushar Mehta, Solicitor General, R Venkataramani, Attorney General, Jayant K Sud, Siddhartha Dave, Jayant Bhushan, Neeraj Kishan Kaul, Mrs. Anitha Shenoy, Sr. Advs., Jagdish Chandra Solanki, Ms. Archana Pathak Dave, Kartik Jasra, Vaibhav Dwivedi, A N Krishna Swami, Udai Khanna,

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Avnish Dave, Jagdish C Solanki, Ms. Riya Sethi, Pratyush Srivastav, Ms. Vidhi Thaker, Parmod Kumar Vishnoi, Prastut Dalvi, Kumar Prashant, Tushar Bhushan, Amartya Bhushan, Yojit Mehra, Ketan Paul, Sukant Vikram, Ms. Sakshi Mittal, Vishnu Mehra, Kunal Malhotra, Amit Kumar Singh, Ms. K Enatoli Sema, Ms. Chubalemla Chang, Prang Newmai, Abhishek Gola, Viresh B. Saharya, Akshat Agarwal, Rajeev Kumar, P. K. Seth, Ms. Manjeet Chawla, Mrs. Usha Pant Kukreti, Ms. Meenakshi Midha, Kapil Midha, Ms. Garv Singh, Ms. Samiksha Gupta, Garv Singh, Chander Shekhar Ashri, Ms. Hetu Arora Sethi, Rajeev Maheshwaranand Roy, Dr. Meera Agarwal, Ramesh Chandra Mishra, Sandeep Jha, Ram Ekbal Roy, Binay Kumar Das, Ms. Neha Das, Ms. Priyanka Das, Ms. Aman Nihal, Sanjay Kumar Singh, Ravi Shankar Ravi, Sanjay Kumar Lal Das, Abhishek Kumar Gola, Abhishek K Gola, Sudhir Naagar, Anil Kumar, Ms. Amrreeta Swaarup, Rajesh Kumar Gupta, Ganesh Kumar R., Sanjay Kumar Dubey, Vivek Kumar Pandey, Shuchi Singh, Rakesh Kumar Tewari, Krishna Kant Dubey, Ujjwal Kumar Dubey, Ram Lal Roy, Punit Damodar, C. George Thomas, Sanyat Lodha, Dhruv Sharma, Raghav Agrawal, Toshiv Goyal, Ms. Raveena Kinkhabwala, Ms. Prachi Pandey, Vivek Mathur, Siddharth Agarwal, Ivan, Ayushma Awasthi, Ms. Namrata Sarah Caleb, Parita, Ms. Mohini Priya, Devvrat, Ms. Charu Sangwan, Anup Kumar, Abhijit Banerjee, Ms. Swati Setia, Devesh Kumar Agnihotri, Sachin Sharma, Anuj Bhandari, Rajat Gupta, Gaurav Jain, Mrs. Disha Bhandari, Mrs. Anjali Doshi, Kaustubh Shukla, Abhishek Gola, Anilendra Pandey, Ms. Priya Kashyap, Rajeev Kumar Ranjan, Ms. Shalini Kaul, Mallikarjun S. Mylar, Ashok Bannidinni, Sujeet Kumar, Nishanth Patil, Ayush P Shah, Vignesh Adithiya S, Tripurari Ray, Nithyananda Murthy P, Mrs. Bhanu Prabha, Balwant Singh Billowria, Vivekanad Singh, Anirudh Ray, Atrul Wadera, N Suresha, Rajinder Singh, Ms. Shilpa Singh, Sushil Kumar Sharma, Pahlad Singh Sharma, Virendra Kumar, Manish Kumar Mishra, Kshitij Vedwal, Salil Paul, Sahil Paul, Ms. Manjeet Chawla, M/s. Nuli & Nuli, Sibbo Sankar Mishra, Manjunath Meled, Sandeep Sharma, Mrs. Vijayalaxmi Udupudi, Anil Kumar, Subhro Sanyal, Prakash Ranjan Nayak, C.B. Gururaj, Balaram Nayak, Animesh Dubey, Ms. Laxmi Haribhai Nakum, Sharanagouda Patil, Mrs. Supreeta Patil, M/s. S-legal Associates, Pradeep Gaur, Amit Gaur, Sunil Kumar Sethi, Ms. Sweta Sinha, Rameshwar Prasad Goyal, P. B. Suresh, Vipin Nair, Arindam Ghosh, Karthik Jayashankar, Anshumaan Bahadur, P.b.sashaankh, Mrs.

Madhavi Yadav, A. N. Krishnaswamy, Navneet Kumar, Saurabh Tiwari, Parijat Kishore, Faisal Sherwani, Shikher Deep Aggarwal, Shivi Sethi, Onkar Thakur, M. Shoeb Alam, Ms. Fauzia Shakil, Ujjwal Singh, Ms. Garima Chaudhary, Ms. Agastya Sen, Advs. for the appearing parties.

JUDGMENT/ORDER OF THE SUPREME COURT

ORDER

1. This reference before the Constitution Bench arises in pursuance of an order dated 8 March 2022 of a Bench of three-Judges. The three-Judge Bench was in turn hearing a reference by two-Judges which was made on 3 May 2018.

2. The primary issue which has been referred to the Constitution Bench is whether a person holding a driving licence in respect of a “light motor vehicle” could on the strength of the licence be entitled to drive a “transport vehicle of light motor vehicle class” having unladen weight not exceeding 7500 kgs.

3. The issue was dealt with by a Bench of three-Judges in **Mukund Dewangan v Oriental Insurance Company Limited**¹. The conclusions which were arrived at in the judgment were in the following terms:

“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

¹ (2017) 14 SCC 663

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.”

4 When the reference before the three-Judge Bench was taken up, counsel appearing on behalf of the insurance companies submitted that the judgment in **Mukund Dewangan** (supra) has not noticed certain provisions of the Motor Vehicles Act 1988². In particular, it was submitted that Section 3 stipulates that “no person shall so drive a transport vehicle other than the motor cab or motor cycle hired for his own use or rented under any

2 “Act”

scheme made under sub-section (2) of Section 75 unless his driving licence specifically entitles him so to do”. Apart from this, the referral order notes that the two-Judge Bench was also of the view that other provisions, including Sections 4(1), 7 and 14 of the Act and Rules 5 and 31 of the Central Motor Vehicles Rules 1989, were not noticed in **Mukund Dewangan**(supra).

5. The Union of India was not a party to the proceedings before this Court when the referral order was passed on 8 March 2022.

6. On 20 July 2023, the Constitution Bench heard arguments on behalf of the insurance companies and on behalf of the claimants. This Court observed as follows:

“3. During the course of the hearing, one of the principal submissions of the respondents has been that the judgment of the three-Judge Bench of this Court in **Mukund Dewangan v Oriental Insurance Company Limited** was accepted by the Union government by issuing notifications dated 16 April 2018 and 31 March 2021 in the Ministry of Road Transport and Highways, as a result of which the Rules were amended to bring them in conformity with the judgment of this Court.

4. We are of the considered view that having regard to the above background, the position of the Union government in the Ministry of Road Transport and Highways would be necessary. We request the Attorney General for India to assist the Court in the matter.”

7. As noted in the above extract, the letter dated 16 April 2018 and notification dated 31 March 2021 in the Ministry of Road Transport and Highways were pressed in aid on behalf of counsel for the claimants to urge that the Union Government has, in fact, amended the Rules to bring them in conformity with the judgment in **Mukund Dewangan** (supra).

8 Mr R Venkataramani, Attorney General for India, has appeared in response to the request of the Court and submitted a written note. The note submitted by the Attorney General indicates that:

(i) Application of the ratio in **Mukund Dewangan** (supra) enables a person holding a licence for a light motor vehicle to drive

a transport vehicle on the strength of that licence without a separate transport vehicle licence; and

- (ii) This interpretation of the provisions of the statute and the Rules in **Mukund Dewangan** (supra) does not appear to be in accord with the legislative intent.

9. The note also indicates that the letter dated 16 April 2018 was issued by the Union government taking note of the judgment in **Mukund Dewangan** (supra) as the law declared by this Court. Resultantly, the notification dated 31 March 2021 was issued to further amend the Rules to bring them in conformity with the judgment. However, the Attorney General has submitted that this may not be treated as a policy declaration by the Union Government and, as such, the letter and the notification may not have any bearing or conclusiveness on the state of law to be clarified.

10. At the same time, it has been submitted that the Union of India is open to the need, if any, to issue guidelines/regulations to address the perceived gaps in law as understood in the judgment of this Court in **Mukund Dewangan** (supra).

11. Apart from the specific submission of the Union Government during the course of hearing, that it is open to re-evaluate the position in law, we are of the considered view that it would be necessary for the Union Government to have a fresh look at the matter. We are inclined to take this view for the following reasons:

- (i) Since the enactment of the Motor Vehicles Act 1988, there has been a rapid evolution of the transport sector, particularly in the last few years with the emergence of new infrastructure and new arrangements for putting into place private transport arrangements;
- (ii) Any interpretation or formulation of the law must duly take into account valid concerns of road safety bearing on the safety of users of public transport facilities;
- (iii) Any change in the position of law as expressed in **Mukund Dewangan** (supra) would undoubtedly have an impact on

persons who have obtained insurance relying on the law declared by this Court and who may be driving commercial vehicles with LMV licences. A large number of persons would be dependent on the sector for earning their livelihood; and

- (iv) The decision in **Mukund Dewangan** (supra) has held the field for nearly six years and the impact of the reversal of the decision, at this stage, particularly on the social sector, is a facet which would have to be placed in balance by the policy arm of the Government.

12. The considerations which have been flagged above do not necessarily weigh in the same direction. However, all of them do raise important issues of policy which must be assessed and evaluated by the Union Government. Whether a change in the law is warranted is a matter which has to be determined by the Union Government after taking a considered decision bearing in mind the diverse considerations which fall within its remit in making policy choices and decisions.

13. Having regard to these features, we are of the view that the issue of interpretation which has been referred to the Constitution Bench by the referral order dated 8 March 2022 should await a careful evaluation of the policy considerations which may weigh with the Government in deciding as to whether the reversal of the decision as it obtains in **Mukund Dewangan** (supra) is warranted and, if so, the way forward that must be adopted bearing in mind the diverging interests, some of which have been noted in the earlier part of the order.

14. Hence, in view of the consequences which may arise by the reversal of the judgment in **Mukund Dewangan** (supra), it would be appropriate if the entire matter is evaluated by the Government before this Court embarks upon the interpretative exercise. Once the Court is apprised of the considered view of the Union Government, the proceedings before the Constitution Bench can be taken up.

15. We request the Union Government to carry out this exercise within a period of two months.

16. We clarify that we have not expressed any opinion on the merits of the referral order dated 8 March 2022 or on the correctness of

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the decision in **Mukund Dewangan** (supra) which would await further arguments once the considered view of the Union Government is placed before this Court.

17. List the proceedings for directions on 22 November 2023, as a part-heard case on the top of the Board.

Headnotes prepared by:
Nidhi Jain

Proceedings listed for directions.