

# Mangla Goods Carrier vs National Insurance Co. Ltd. & Ors on 8 November, 2021

**Author: Sanjeev Sachdeva**

**Bench: Sanjeev Sachdeva**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ MAC.APP. 270/2021

MANGLA GOODS CARRIER

Through Mr. Kanwal Chaudhary, A

versus

NATIONAL INSURANCE CO. LTD. & ORS. .... Res

Through Mr. Yuvraj Sharma, pro

(Through VC) Mr. Panka

Advocate for the insur

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% 08.11.2021 Exemption is allowed, subject to all just exceptions.

MAC.APP. 270/2021 & CM. APPL. 34838-39/2021

1. Appellant impugns award dated 02.03.2020, whereby the Tribunal has allowed the claim petition filed under Section 166 of the Motor Vehicles Act and awarded compensation to respondents No.2 to 4.

2. Learned counsel for appellant submits that the Tribunal has erred in granting recovery rights to respondent No.1, the insurance Digitally Signed By:KUNAL Digitally Signed Signing Date:08.11.2021 18:14:09 MAC.APP. 270/2021 By:JUSTICE SANJEEV 1 SACHDEVA This file is digitally signed by PS Signing Date:11.08.2021 to HMJ Sanjeev Sachdeva. 16:54 company on the ground that the driver i.e., respondent No.5 was not holding a valid driving license.

3. Learned counsel submits that the driver was holding a driving license, which was issued by the DTO, Teunsang, Nagaland on 16.07.2010 for scooter, motorcycle and LMV and thereafter was endorsed for MMV and HMV on 01.11.2010.

4. Learned counsel submits that the Tribunal has erred in holding that the driving license was not valid for driving a MMV and HMV. He submits that as the driver of the vehicle had produced a driving license, it was not for the owner to conduct any further enquiry into the validity of the endorsement made thereon.

5. He further submits that in any event, the unladen weight of the offending vehicle was 4500 kilograms which would qualify as an LMV and not as a Heavy Motor Vehicle. He relies on the judgment of the Supreme Court on in Mukund Dewangan Vs. Oriental Insurance Co. Ltd. (2017) 14 SCC 663 as also the judgment of this Court dated 12.08.2021 in MAC. APPL. 233/2021 titled, Mahesh Kumar Maurya & Anr. Vs. HDFC Ergo GIC Ltd. & Anr., to contend that license to drive a Light Motor Vehicle would include a license to drive a Light Transport Vehicle where the unladen weight is less than 7500 kilograms.

6. Issue notice. Notice is accepted by learned counsel appearing for respondent No.1.

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7. Since the dispute is only with regard to grant of recovery rights to respondent No.1, service of respondents No.2 to 5 is dispensed with.

8. List on 06.04.2022.

9. Digital copy of the Tribunal's record be requisitioned.

10. In the meantime, the impugned order, limited to the extent of granting recovery rights to respondent No.1, shall remain stayed.

SANJEEV SACHDEVA, J NOVEMBER 8, 2021 NA Digitally Signed By:KUNAL Digitally Signed Signing Date:08.11.2021 18:14:09 MAC.APP. 270/2021 By:JUSTICE SANJEEV 3 SACHDEVA This file is digitally signed by PS Signing Date:11.08.2021 to HMJ Sanjeev Sachdeva. 16:54