

M/S. Bajaj Alliance General Insurance ... vs Rambha Devi on 8 March, 2022

Author: Uday Umesh Lalit

Bench: Pamidighantam Sri Narasimha, S. Ravindra Bhat, Uday Umesh Lalit

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.841 OF 2018

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

Appellant

VERSUS

RAMBHA DEVI & ORS.

Respondents

WITH

SLP(C) No.18849/2019

SLP(C) Nos.14645-14646/2017

SLP(C) Nos.35472-35473/2017

SLP(C) No.6055/2018

Civil Appeal No.1477/2018

Civil Appeal No.842/2018

Civil Appeal No.483/2018

Civil Appeal No.1478/2018

Diary No.40406/2017

Civil Appeal No.1476/2018

Diary No.41949/2017

SLP(C) No.597/2018

SLP(C) No.524/2018

Diary No.2524/2018

SLP(C) No.9604/2018

SLP(C) No.9613/2018

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SLP(C) No.17506/2018

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Mukesh Nasa

Date: 2022.03.10

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Diary No.9970/2018

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SLP(C) Nos.19242-19244/2018

Diary No.23636/2018

Diary No.23638/2018

Diary No.24137/2018

Diary No.24530/2018

Diary No.24534/2018

Diary No.24834/2018

Diary No.25256/2018

SLP(C) No.24671/2018

Diary No.32753/2018

Diary No.32756/2018

Diary No.37055/2018

Diary No.39059/2018

SLP(C) No.426/2019

SLP(C) Nos.505-506/2019

SLP(C) No.5958/2019

SLP(C) Nos.11503-11504/2019

SLP(C) No.13315/2019

SLP(C) Nos.14523-14524/2019

SLP(C) No.20449/2019

SLP(C) No.21547/2019

SLP(C) Nos.23017-23018/2019

Civil Appeal Nos.8001-8002/2019

SLP(C) No.766/2020

SLP(C) No.24545/2019

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SLP(C) Nos.30420-30421/2019

SLP(C) No.696/2021

SLP(C) Nos.3735-3736/2021

Civil Appeal No.1506/2018

Diary No.37270/2017

Civil Appeal No.1479/2018

SLP(C) Nos.2684-2685/2018

SLP(C) No.5065/2018

SLP(C) No.10459/2018

SLP(C) No.9908/2018

SLP(C) No.6668/2018

Diary No.4869/2018

Diary No.6119/2018

Diary No.6264/2018

SLP(C) No.8816/2018

SLP(C) No.9607/2018

SLP(C) No.9610/2018

SLP(C) No.9612/2018

SLP(C) No.9608/2018

SLP(C) No.9606/2018

SLP(C) No.9609/2018

Diary No.9963/2018

SLP(C) No.28906/2018

SLP(C) No.5193/2018

Civil Appeal No.1475/2018

Diary No.990/2018

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SLP(C) No.5188/2018

SLP(C) No.9611/2018

SLP(C) No.9605/2018

O R D E R

1. On a reference made by a Two-Judge Bench in Civil Appeal No.841 of 2018 and other connected matters, these matters have been listed before us.

2. The referral order dated 03.05.2018 notes that a Three-Judge Bench of this Court in *Mukund Dewangan v. Oriental Insurance Company Limited*, (2017) 14 SCC 663, considered inter alia question whether a person holding a driving licence in respect of “light motor vehicle”, could on the strength of that licence, be entitled to drive a “transport vehicle of light motor vehicle class” having unladen weight not exceeding 7500 kgs. The referral order quoted the conclusions drawn in paragraphs 60 to 60.4 in *Mukund Dewangan* (supra):

“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.” Thereafter certain provisions which were not brought to the notice of the Court deciding Mukund Dewangan (supra) were noted. Those provisions as quoted in the order of reference were as under:

“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.”

3. Mr. Jayant Bhushan, Mr. Gopal Sankaranaryanan, Mr. Siddhartha Dave, learned Senior Advocates as well as Mr. Amit Singh, Ms. Archana Pathak Dave, Mr. Kaustubh Shukla, Ms. Meenakshi Midha and Mr. Rajesh Kumar Gupta, learned Advocates, appearing for Insurance Companies have invited our attention to some of the other provisions, namely, second proviso to Section 15 and Sections 180 and 181 of the Motor Vehicles Act, 1988 apart from those quoted in the referral order. It is submitted that though Section 3 was quoted in the decision in Mukund Dewangan (supra), the latter part of Section 3 and the effect thereof was not noticed by the Court. The latter part of said 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 scheme made under any scheme made under sub-section (2) of Section 75 unless his driving licence specifically entitles him so to do.”

4. It is thus submitted that the provisions contemplate different regimes for those having licence to drive Light Motor Vehicles as against those licensed to drive Transport Vehicles.

5. Having bestowed our attention to the contentions raised by the learned counsel and the issues which fall for consideration, in our view, the referral order was right in stating that certain provisions were not noticed by this Court in its decision in Mukund Dewangan (supra). We are prima facie of the view that in terms of the referral order, the controversy in question needs to be revisited. Sitting in a combination of Three Judges, we deem it appropriate to refer the matters to a larger bench of more than Three Judges as the Hon’ble the Chief Justice of India may deem appropriate to constitute.

6. The Registry is, therefore, directed to place these matters, except SLP (Civil) Nos.30420-30421/2019 and SLP(C) Nos.3735- 3736/2021, before the Hon’ble the Chief Justice of India to constitute a Bench of appropriate strength to consider all these issues.

7. Before we part, we must note that all the learned counsel appearing for the Insurance companies have fairly submitted that the compensation in terms of the directions issued by the Courts below, that is to say, in following the principles laid down in Mukund Dewangan (supra) has either been paid in full or shall be paid in terms of such directions. Their statements are recorded. SLP (Civil) Nos.30420-30421/2019; and, SLP(C) Nos.3735-3736/2021

8. At the request of the learned counsel, these matters are detagged.

List these matters on 09.03.2022.

.....J. (UDAY UMESH LALIT)J.
(S. RAVINDRA BHAT)J. (PAMIDIGHANTAM SRI
NARASIMHA) New Delhi;

March 08, 2022.