

JAGDISH KUMAR SOOD

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v.

UNITED INDIA INSURANCE CO. LTD. AND ORS

(Civil Appeal No. 240 of 2017)

MARCH 06, 2018

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**[DIPAK MISRA, CJI, A.M. KHANWILKAR AND
DR. D.Y. CHANDRACHUD, JJ.]**

Motor Vehicles Act, 1988 (as amended vide Amendment Act 54 of 1994 w.e.f. 14.11.1994 and further amendment w.e.f. 28/3/2001) – s.2(21) r/w ss. 2(15), 2(48) and 10(2)(d) – Death due to motor accident – Tribunal awarded compensation but absolved the insurer on the ground that the vehicle involved in the accident was a Light Goods Vehicle – Tribunal held that in the absence of a specific authorization to drive a transport vehicle, the liability could not be fastened on the insurer – Held: The issue is covered by a judgment of a three Judge Bench of Supreme Court in Mukund Dewangan case – Order of the Tribunal absolving the insurer accordingly set aside – The liability shall jointly and severally be fastened on the insurer, in addition to the owner and driver.

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The husband of third respondent died as a result of an accident caused by a collision with an offending truck. The Tribunal awarded compensation but absolved the insurer on the ground that the vehicle involved in the accident was a Light Goods Vehicle. The Tribunal held that in the absence of a specific authorization to drive a transport vehicle, the liability could not be fastened on the insurer. The Tribunal directed the insurer to pay in the first instance and allowed it to recover the compensation from the driver and the owner. High Court did not interfere with the order of the Tribunal absolving the insurer. Hence the present appeal by the owner.

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Allowing the appeal, the Court

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HELD : The issue which arises before the Court is not *res integra* and is covered by a judgment of a three Judges of this Court in Mukund Dewangan v Oriental Insurance Company Limited. The order of the Tribunal absolving the insurer shall accordingly stand set aside. The liability shall jointly and severally

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A **be fastened on the insurer, in addition to the owner and driver.**
[Paras 4, 6] [19-A-F]

Mukund Dewangan v Oriental Insurance Company Limited (2017) 14 SCC 663 – relied on.

Case Law Reference

B **(2017) 14 SCC 663 relied on Para 4**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 240 of 2017.

C From the Judgment and Order dated 04.11.2014 of the High Court of Punjab and Haryana at Chandigarh in FAO No. 2556 of 2011 (O&M).

R. K. Kapoor, Ms. Rekha Giri, Rajat Kapoor (for Anis Ahmed Khan) Advs for the Appellant.

D A. K. De, Ms. Ananya De, Zahid Ali (for Debasis Misra) Advs for the Respondents.

The Judgment of the Court was delivered by

E **DR. D.Y. CHANDRACHUD, J.** 1. The Motor Accident Claims Tribunal allowed a claim for compensation filed by the third respondent. The claim arose from the death of the husband of the claimant on 4 January 2009 as a result of an accident caused by a collision with an offending truck. The Tribunal awarded an amount of Rs 4,08,000 together with interest at 6 per cent per annum. In an appeal filed by the third respondent the High Court enhanced the compensation to Rs 8,04,000. Interest @ 7.5 per cent per annum was awarded on the enhanced compensation.

F 2. The Tribunal absolved the insurer on the ground that the vehicle involved in the accident was a Light Goods Vehicle. The driver had a licence to drive the Light Motor Vehicle. The Tribunal held that in the absence of a specific authorization to drive a transport vehicle, the liability could not be fastened on the insurer. The Tribunal directed the insurer to pay in the first instance and allowed it to recover the compensation from the driver and the owner. The present appeal has been filed by the owner.

G 3. The High Court, while enhancing the compensation did not interfere with the order of the Tribunal absolving the insurer.

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4. The issue which arises before the Court is not *res integra* and is covered by a judgment of a three Judges of this Court in **Mukund Dewangan v Oriental Insurance Company Limited**¹ in which it has been *inter alia* held as follows: A

“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.” (Id at page 709) B

“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.” (Id at page 710) C D E

5. Having regard to the above position, the Civil Appeal will have to be allowed.

6. The appeal is allowed, the order of the Tribunal absolving the insurer shall accordingly stand set aside. The liability shall jointly and severally be fastened on the insurer, in addition to the owner and driver. There shall be no order as to costs. F

Bibhuti Bhushan Bose

Appeal allowed.

¹(2017) 14 SCC 663