2024 INSC 840

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 841 of 2018

M/s BAJAJ ALLIANCE GENERAL
INSURANCE CO. LTD. …APPELLANT(S)

VERSUS

RAMBHA DEVI & ORS. …RESPONDENT(S)

WITH

SLP(C) No. 10918 of 2018

SLP(C) No. 9604 of 2018

SLP(C) No. 9613 of 2018

Diary No. 24834 of 2018

Diary No. 25256 of 2018

SLP(C) No. 24671 of 2018

Diary No. 32753 of 2018

Diary No. 32756 of 2018

Diary No. 37055 of 2018

Diary No. 39059 of 2018

SLP(C) No. 426 of 2019

SLP(C) Nos. 505-506 of 2019

SLP(C) No. 17506 of 2018

Diary No. 23638 of 2018

Diary No. 24137 of 2018

Diary No. 24530 of 2018

Diary No. 24534 of 2018

SLP(C) No. 5958 of 2019

SLP(C) Nos. 8918-8919 of 2019

SLP(C) Nos. 11503-11504 of 2019

SLP(C) No. 8277 of 2020

SLP(C) Nos. 8123-8124 of 2022

SLP(C) Nos. 14645-14646 of 2017

SLP(C) No. 35472-35473 of 2017

SLP(C) No. 6055 of 2018

SLP(C) No. 18849 of 2019

SLP(C) No. 20449 of 2019

SLP(C) Nos. 21547 of 2019

SLP(C) Nos. 23017-23018 of 2019

CIVIL APPEAL Nos. 8001-8002 of 2024

SLP(C) No. 766 of 2020

SLP(C) No. 24545 of 2019

SLP(C) Nos. 30601 of 2019

SLP(C) No. 696 of 2021

CIVIL APPEAL No. 1477 of 2018

CIVIL APPEAL No. 842 of 2018

CIVIL APPEAL No. 1479 of 2018

CIVIL APPEAL No. 483 of 2018

CIVIL APPEAL No. 1506 of 2018

CIVIL APPEAL No. 1478 of 2018

Diary No. 40406 of 2017

CIVIL APPEAL No. 1476 of 2018

Diary No. 41949 of 2017

SLP(C) Nos. 2684-2685 of 2018

SLP(C) No. 597 of 2018

SLP(C) No. 524 of 2018

Diary No. 2524 of 2018

SLP(C) Nos. 19242-19244 of 2018

SLP(C) Nos. 19242-19244 of 2018

Diary No. 23636 of 2018

SLP(C) No. 28906 of 2018

SLP(C) No. 13315 of 2019

SLP(C) Nos. 14523-14524 of 2019

Diary No. 37270 of 2017

CIVIL APPEAL No. 1475 of 2018

SLP(C) No. 5065 of 2018

SLP(C) No. 10459 of 2018

SLP(C) Nos. 9908 of 2018

SLP(C) No. 6668 of 2018

Diary No. 4869 of 2018

Diary No. 6119 of 2018

Diary No. 6264 of 2018

SLP(C) No. 8816 of 2018

SLP(C) No. 9607 of 2018

SLP(C) No. 9610 of 2018

SLP(C) No. 9612 of 2018

SLP(C) No. 9606 of 2018

SLP(C) No. 9609 of 2018

Diary No. 9963 of 2018

Diary No. 9970 of 2018

Diary No. 990 of 2018

SLP(C) No. 5193 of 2018

SLP(C) No. 5188 of 2018

SLP(C) No. 9611 of 2018

SLP(C) No. 9608 of 2018

SLP(C) No. 9605 of 2018

SLP(C) No. 20221 of 2023

SLP(C) No. 19921 of 2023

SLP(C) No. 28961 of 2023

J U D G M E N T

Hrishikesh Roy, J.

1. On the perception of the capability of drivers on the road, the comedian George Carlin made the humorous observation to the effect that: *'Have you ever noticed that anybody driving slower than*

you is an idiot, and anyone going faster than you is a maniac?'[1]. Concerns about road safety are often shaped by individual biases without the opinion being founded on any empirical data. It is easy to overlook the full spectrum of factors that contribute to road safety. In this context, the pivotal legal issue that this Constitution bench of five judges has to decide is whether under the existing legal framework of the *Motor Vehicle Act,1988 (*for short "MV Act"*)* and the *Central Motor Vehicles Rules, 1989* (for short, "MV Rules"), a person holding a license for a 'Light Motor Vehicle' *class,* can drive a 'Transport Vehicle' without a specific endorsement, provided the 'Gross Vehicle Weight' of the vehicle does not exceed 7,500 kgs?. Besides road safety, the livelihood concern of a large number of drivers of transport vehicles in India also requires an answer from the bench. In this judgment, let us name our driver Sri, who is a 'Transport Vehicle' driver. As can be appreciated, Sri spends maximum hours behind the driving wheels and is arguably the most experienced one amongst Indian drivers, carrying goods and people, from destination A to B and so on.

[1] George Carlin, 'Carlin on Campus' (HBO, 1984) <https://www.primevideo.com/detail/George-Carlin-Carlin-On-Campus/0ND548YT8ZBNFE9A56MJWHZ8PK> accessed 2 November 2024

A. BACKGROUND

2. Before we set out the relevant provisions, a brief overview of the legal journey that has led us to the above quest would be appropriate. The vexed question was first noticed by a 2-judge Bench of Justice Kurian Joseph and Justice Arun Mishra in *Mukund Dewangan v. Oriental Insurance Co. Ltd.* [2] (for short *"Mukund Dewangan(2016)"*. It took note of the conflicting views in 8 different judgments of this Court and framed the following questions for determination by a 3-judge bench:

> "59.1. What is the meaning to be given to the definition of "light motor vehicle" as defined in Section 2(21) of the MV Act? Whether transport vehicles are excluded from it?
>
> 59.2. Whether "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 licence to drive class of "light motor vehicle" as provided in Section 10(2)(*d*) would be 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?
>
> 59.3. What is 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", "medium passenger motor vehicle", "heavy goods vehicle" and "heavy passenger motor vehicle" by "transport vehicle"? Whether insertion of the expression "transport vehicle" under Section 10(2)(*e*) is related to the said

[2] (2016) 4 SCC 298

> substituted classes only or it also excluded transport vehicle of light motor vehicle class from the purview of Sections 10(2)(*d*) and 2(41) of the Act?
>
> 59.4. What is the effect of amendment of Form 4 as to operation of the provisions contained in Section 10 as amended in the year 1994 and whether procedure to obtain driving licence for transport vehicle of class of "light motor vehicle" has been changed?"

3. Speaking through Justice Arun Mishra, the reference was answered by a 3-Judge Bench of Justice Arun Mishra, Justice Amitava Roy, and Justice Sanjay Kishan Kaul in *Mukund Dewangan v. Oriental Insurance Co. Ltd.*[3] (for short *"Mukund Dewangan(2017)"*). The Bench concluded that the holder of a license for a 'Light Motor Vehicle' class need not have a separate endorsement to drive a 'transport vehicle' if it falls under the 'Light Motor Vehicle' class i.e. below 7,500 kgs. The reference was answered as under:

> "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 section 2(15) and 2(48). Such transport vehicles are not excluded from the definition of the light motor vehicle by virtue of Amendment Act No.54/1994.
>
> 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 road roller, '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

[3] (2017) 14 SCC 663

road-roller, 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 54/1994 and 28.3.2001 in the form.

60.3. The effect of the amendment made by virtue of Act No.54/1994 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.**"

[emphasis supplied]

4. However, the above pronouncement did not put the matter to rest. On 3.5.2018, a two-judge Bench comprising Justice Kurian Joseph & Justice Mohan M. Shantanagoudar in *M/s. Bajaj Alliance General Insurance Co. Ltd. v. Rambha Devi & Ors.*[4] noted that while deciding the vexed question in *Mukund Dewangan (2017)*, the 3 Judge-bench had not considered important

[4] (2019) 12 SCC 816

provisions of the *MV Act* and *MV Rules*. The bench noted that the following significant provisions were not placed before the Court in *Mukund Dewangan(2017)*:

> "3. It is the submission of Shri Jayant Bhushan and Shri Joy Basu, learned Senior Counsel that certain distinct provisions pertaining specifically to transport vehicles have unfortunately not been brought to the notice of the Court:
>
> 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 Motor Vehicles Rules, 1989 (hereinafter referred to as "the Rules") makes a medical certificate issued by a registered medical practitioner mandatory 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.
>
> It is also submitted that in these provisions, there does not appear to be any exception carved out for transport vehicles which come in the light motor vehicle category."

5. Being a two-judge bench, the Court deemed it appropriate to refer the prayer itself for reconsideration of the ratio in *Mukund Dewangan(2017*) to a larger bench of three judges. Subsequently, a three-Judge bench of Justice U.U. Lalit, Justice S. Ravindra Bhat, and Justice P.S. Narasimha on 8.3.2022[5] noted that the referral order rightly observed that certain provisions of the *MV Act* and *MV Rules* were not noticed in *Mukund Dewangan (2017*). The 3-judge bench flagged certain additional provisions that were not noticed in *Mukund Dewangan(2017).* Since such a view was expressed by a Bench of equal strength, it was considered appropriate to refer the matter to a larger bench of five judges. The reference order reads as under:

> "5. 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 few other provisions, namely, the second proviso to Section 15 and Sections 180 and 181 of the Motor Vehicles Act, 1988 apart from those mentioned 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."

[5] Bajaj Alliance General Insurance Co. Ltd. v. Rambha Devi, (2023) 4 SCC 723

> 6. 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.
>
> 7. 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 re visited. 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. For the benefit of the claimants, the reference order also pertinently notes that:

> "9. 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."

7. Thus, the correctness of *Mukund Dewangan(2017)* is to be evaluated during this reference. At this juncture, we may note that during the final stage of hearing before this Court on 20.7.2023, it was brought to our notice that the Union Government had accepted the decision in *Mukund Dewangan(2017),* by issuing notifications dated 16.4.2018 and 31.3.2021. The Rules were also amended to bring them in conformity with the said judgment. Considering such compliance, we sought the assistance of the learned Attorney General, Mr. R. Venkataramani and desired to

elicit the specific stand of the Union Government on the issue. When the matter was next heard on 13.9.2023[6], the following order was passed by this 5-judge bench:

> "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:

[6] Bajaj Alliance General Insurance Co. Ltd. v. Rambha Devi, (2024) 1 SCC 818

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

8. In view of the consultative exercise being carried out by the government, the matter was deferred multiple times. On 16.4.2024, a note on the proposed set of amendments to the *MV Act* was submitted before this Court. On 21.8.2024, the learned Attorney General, R. Venkataramani had suggested that the matter be either deferred till the amendments are tabled before Parliament or the Court may conclude the pending hearing. We then proceeded to hear the part-heard matter on 21.8.2024.

B. SUBMISSIONS ON BEHALF OF INSURANCE COMPANIES

9. We have heard Mr. Tushar Mehta, learned Solicitor General; learned Senior Counsel Mr. Siddhartha Dave, Mr. Jayant Bhushan; Ms. Archana Pathak Dave, Mr. Neeraj Kishan Kaul, learned Senior Counsel; Mr. Amit Kumar Singh and Mr. Shivam Singh, Learned Counsel on behalf of the Insurance Companies.

Mr. PB Suresh appeared as a supporting Intervenor for the 'The Society against Drunk Driving'.

9.1. Mr. Siddhartha Dave, learned Senior Counsel took us through those provisions of the *MV Act* and *MV Rules* that create a distinction between 'Light Motor Vehicles' and 'Transport Vehicles'.

9.2. The Counsel drew the Court's attention to Section 3 of the *MV Act* which stipulates the 'necessity for a driving license' to drive a motor vehicle. He referred to the second part of the provision which states that '*no person shall so drive a transport vehicle…unless his driving license specifically entitles him so to do*.' It was contended that *Mukund Dewangan* (*2017*) overlooked that there was a specific mention of 'transport vehicle' in Section 3 which would indicate that a license for a 'light motor vehicle' cannot be used for driving a 'transport vehicle'.

9.3. Mr. Dave further argued that the eligibility for obtaining a license for transport vehicles is more stringent than for Light Motor Vehicles. Since transport vehicles are primarily utilized for carrying passengers and goods, the additional requirements are essential for ensuring road safety. Adverting to Section 4 of the *MV Act*, which sets out the age limit, the Counsel highlighted that the minimum age for securing a driving license for 'motor vehicles'

is 18 years but for driving 'transport vehicles', Section 4(2) provides that the minimum age would be 20. Moreover, to qualify even for a learner's license to drive a 'transport vehicle', Section 7(1) stipulates that a candidate must have held a driving license for a 'Light Motor Vehicle', for at least one year.

9.4. Section 8(3) mandates that an individual applying for a learner's license for a transport vehicle, must submit a medical certificate from a registered medical practitioner, attesting to the applicant's physical fitness to operate a transport vehicle. However, such a requirement is absent in the case of a Light Motor Vehicle for which only a self-declaration is sufficient. Additionally, the second proviso to Section 15 of *MV Act* stipulates that a medical certificate is also necessary for the renewal of a driving license for 'transport vehicles'. Section 9(4) requires that the applicant for a 'transport vehicle' license must possess a driving certificate from a driving school or establishment. It was further submitted that the 1994 amendment to Section 10 merged four classes of (i) 'medium goods vehicle', (ii) 'medium passenger vehicle', (iii) 'heavy goods vehicle' and (iv) 'heavy passenger vehicle', into a single class of 'transport vehicle' under Section10(2)(e) of *MV Act*. Section 10(2)(d) on the other hand provides for a separate class of 'Light Motor Vehicle'. Therefore, the retention of the separate classes of

'transport vehicle' and 'light motor vehicle' under Section 10(2) by the 1994 Amendment, implies that the two classes are not co-equals, and the license holder of a 'Light Motor Vehicle' is not eligible to drive a 'Transport Vehicle'. A separate license would be mandatory is the argument of the counsel.

9.5. Mr. Jayant Bhushan, learned Senior Counsel argued that *Mukund Dewangan* (*2017)* erred in two significant respects. The judgment overlooked Section 3, which mandates a separate endorsement for driving a 'transport vehicle'. Reliance was placed on the decision in *Nathi Devi v Radha Devi Gupta*[7] , where it was held that 'effort should be made to give effect to each and every word used by the Legislature.' Therefore, it was projected that the Court should not disregard any part of Section 3 in its interpretation.

9.6. The other reason why *Mukund Dewangan* (*2017)* was incorrect according to Mr. Bhushan, was because it focused on the general law, rather than the special provisions within the *MV Act.* It was therefore argued that it is a well-known principle that the general will not override the special (*Generalia Specialibus Non Derogant*) and the special will override the general (*Specialia*

[7] (2005) 2 SCC 271

Generalibus Derogant). It was pointed out that Section 10(2) explicitly distinguishes between 'Transport Vehicles' and LMV, treating them as separate categories. *Mukund Dewangan (2017*) erroneously subsumed 'transport vehicles' under the broader category of 'Light Motor Vehicles'. It was also contended that the requirements for obtaining a transport vehicle license are distinct and more rigorous because the drivers of transport vehicles are entrusted with the safety of passengers including school children and strangers, who repose their trust in the driver of the transport vehicle.

9.7. In his turn, Mr. Neeraj Kishan Kaul, learned Senior Counsel emphasized that the classification of transport vehicles under 7500 kg within the definition of Light Motor Vehicles under Section 2(21) is a broad definition, based on weight. He contended that this classification does not imply that the licensing regime under the *MV Act* is also determined by weight. According to the Counsel, licensing under the *MV Act* is linked to the intended 'use' of the vehicle. Specific attention was drawn to the definition of a Transport Vehicle in Section 2(47), which refers to a 'public service vehicle', a 'goods carriage', an 'educational institution bus' or a 'private service vehicle'. Mr. Kaul argued that in the separate definition for each of these categories, one common factor is

discernible as each provision uses words like 'use', 'used or adapted to be used', 'constructed or adapted for use'. This shows that the licensing scheme is based on usage and not the weight of the vehicle.

9.8.Mr. Tushar Mehta, Learned Solicitor General submitted that the definition under Section 2(21) which includes transport vehicles is for a different regime, set under Section 113 and 115 of *MV Act.* These sections are contained in Chapter VII which is titled 'Control of Traffic' and pertain to 'limits of weight and limitations on use' and 'power to restrict the use of vehicles'. In this context, vehicles of specific weight may be prohibited from certain roads or areas thereby, making weight a relevant factor. Under the said definition of LMV, 'weight' has been kept as a factor for demarcation between 'LMV' and 'Transport' vehicles only for the purposes of determining the 'road tax'. Rule 31(2) and Rule 31(3) of the Rules prescribe the syllabus for training drivers for 'Non-Transport' and 'Transport' vehicles respectively. It was submitted that the said syllabuses are not the same. Also, the *MV Act* provides that the minimum period of training shall not be less than 21 days for 'Non-Transport' vehicles, as opposed to 'Transport' vehicles, for which the minimum period of training shall not be less than 30 days.

9.9. In her turn, Ms. Archana Pathak Dave, learned Senior Counsel presented to the Bench a photograph of a bus weighing 7450 kg, just below the limit of 7500 kg. She argued that if a school bus is operated by someone holding a Light Motor Vehicle license, it could be very risky. It was asserted that weight should not be a determining factor for licensing, rather it may be relevant in contexts such as taxes, permits, and other regulatory considerations. Ms. Dave pointed out that *Mukund Dewangan(2017)* failed to acknowledge the necessity of a Form 7 endorsement for LMV license holders to drive transport vehicles. This endorsement is crucial, as LMV license holders cannot legally drive transport vehicles without it. Furthermore, Section 9(6) requires competence testing, specific to the type of vehicle, necessitating separate licenses for LMV and Transport Vehicles to maintain the *MV Act*'s regulatory coherence.

9.10. Mr. P.B. Suresh, learned Counsel representing the Intervenor - The Society Against Drunken Driving, an NGO argued that road safety is considered a fundamental right. He argued that the decision in *Mukund Dewangan (2017)* has led to unsafe roads by permitting untrained drivers to operate transport vehicles. It was submitted that Section 7 of the *MV Act* requires an individual

to hold a driver's license for at least one year to obtain a learner's license for a transport vehicle, which is a critical safety measure.

9.11. Mr. Shivam Singh, learned Counsel argued that motor vehicle insurance policies had ensured adequate risk coverage only when accidents were caused by vehicles for which, drivers had valid licenses. However, in *Mukund Dewangan (2017*), this court referred to the weight of the vehicle, rather than vehicle usage, as a relevant marker for statutory purposes. Consequently, insurance coverage through judicial decisions had to be extended to cases where drivers with LMV licenses were driving vehicles outside their licensing permits.

C. SUBMISSIONS ON BEHALF OF CLAIMANTS

10. On behalf of the Claimants, we have heard learned Senior Counsel, Ms. Anitha Shenoy, and the respective submissions of Mr. Devvrat, Mr. Kaustubh Shukla and Mr. Anuj Bhandari learned Counsel. While supporting the interpretation in *Mukund Dewangan (2017)* the Counsel would contend that the vehicles under the *MV Act* are differentiated according to their weight. They argue that the definition of 'light motor vehicle' in Section 2(21) is an inclusive definition which encompasses multiple variety

of vehicles including transport vehicles, the weight of which does not exceed 7500 kg.

10.1. The learned Counsel, Mr. Devvrat contended that the licensing system under the *MV Act,* categorises motor vehicles into two primary groups i.e. Light and Heavy categories—LMV and HMV respectively. It was argued that if a motorcycle used for hire, weighing less than 200kg falls under the class of transport vehicles, countless drivers operating on platforms like Rapido, a bike-or-hire service, would be required to obtain fresh licenses if *Mukund Dewangan(2017)* is overruled.

10.2. Mr. Anuj Bhandari, learned Counsel arguing for the Claimants, took us through the history of the inclusion of "transport vehicles" as a class, under the *MV Act.* It was submitted that for the last 34 years, licenses have been granted in the country on the basis of weight of the vehicle. Even today, Form 2 specifies the grant of licenses based on weight, with exceptions being made for vehicles like road rollers, e-rickshaws, or a motorcycle. He pointed out that the original legislation identified four types of vehicles: (i) medium goods vehicles, (ii) medium passenger vehicles, (iii) heavy goods vehicles and (iv) heavy passenger vehicles. With the 1994 amendments to the *MV Act,* these

categories were clubbed into a single classification of "transport vehicles." Building on this, Mr. Bhandari contended that "transport vehicles" under the *MV Act* meant medium and heavy vehicles. Therefore, individuals with an LMV license were entitled to drive a light transport vehicle weighing less than 7500 kilograms. Whereas, additional requirements of a medical certificate and experience would apply only to those medium and heavy transport vehicles which exceed the weight limit of 7,500 kgs. It was argued that the Parliament changed the nomenclature by merging the four categories into a single class of 'Transport Vehicles', to 'simplify' the licensing scheme.

10.3. Mr. Kaustubh Shukla, Learned Counsel projected that careful reading of all the definitions in Section 2 would make it clear that the definitions were primarily bifurcated as follows:

> "a. 'Class of vehicle,' which mandatorily referred to weight: LMV [Sec. 2(21)] up to 7500 KG, HMV (Passenger/Goods) [Sec. 2(16) & Sec. 2(17)] exceeding 12000 KG, MMV (Passenger/Goods) [Sec. 2(23) & Sec. 2(24)] between 7500 to 12000 KG.
>
> b. 'Kind or Name' (Description) of vehicle, which had no reference to weight: [Sec. 2(7), 2(11), 2(14), 2(22), 2(25), 2(27), 2(28), 2(29), 2(33), 2(39), 2(40), 2(43), 2(44), 2(46), 2(47)]."

The legislature, according to the counsel, intended to demarcate vehicles depending upon the weight of the vehicle and not their

description. Thus, according to him, the entire licensing scheme must take into account the weight classification, to ensure clarity. The earlier unamended act set the weight limit at 6000 kg which was further raised to 7500 kg by way of the 1994 amendment. Therefore, the legislature intended to demarcate vehicles depending on the weight and not the description of vehicle. It was further argued that in the event of a conflict between the Act and the Rules, Schedules, or Forms, the provisions of the Act will take precedence. Reliance was placed on the decision of this Court in *Aphali Pharmaceuticals Ltd. v. State of Maharashtra*[8].

10.4 Ms. Anitha Shenoy, Learned Senior Counsel additionally argued that on the strength of *Mukund Dewangan(2017)*, the auto drivers were permitted to operate taxis and motorcabs while holding a driving licence for LMV for the past 6 years. Reconsideration of the same is not merely an issue of insurance coverage, rather it would directly impact the livelihood of those driving transport vehicles with an LMV license. Their rights under Article 19(1)(g) of the Constitution of India should also be factored in for the interpretative exercise.

[8] (1989) 4 SCC 378.

D. ISSUES

11. From the above submissions, the following specific issues fall for our consideration:

(i) Whether a driver holding an LMV license (for vehicles with a gross vehicle weight of less than 7,500 kgs) as per Section 10(2)(d), which specifies 'Light Motor Vehicle', can operate a 'Transport Vehicle' without obtaining specific authorization under Section 10(2)(e) of the *MV Act*, specifically for the 'Transport Vehicle' class;

(ii) Whether the second part of Section 3(1) which emphasizes the necessity of a driving license for a 'Transport Vehicle' overrides the definition of LMV in Section 2(21) of *MV Act?* Is the definition of LMV contained in Section 2(21) of *MV Act* unrelated to the licensing framework under the *MV Act* and the *MV Rules*;

(iii) Whether the additional eligibility criteria prescribed in the *MV Act* and *MV Rules* for 'transport vehicles' would apply to those who are desirous of driving vehicles weighing below 7,500 kgs and have obtained a license for LMV class under Section 10(2)(d) of the *MV Act ;*

(iv) What is the effect of the amendment made by virtue of Act 54 of 1994 w.e.f. 14.11.1994 which substituted four classes under clauses (e) to (h) in Section 10 with a single class of 'Transport Vehicle' in Section 10(2)(e)?

(v) Whether the decision in *Mukund Dewangan(2017)* is *per incuriam* for not noticing certain provisions of the *MV Act* and *MV Rules*?

E. DISCUSSION

(I) *The Purpose of the MV Act,1988*

12. Prior to the enactment of the *MV Act 1988*, the legal framework governing motor vehicles was based on the *Motor Vehicle Act,1939* which was incorporated from the English *Road Traffic Act,1930.* In January 1984, a working group was constituted to review all provisions of the *Motor Vehicle Act,1939* and to propose necessary amendments. This culminated in the enactment of the *MV Act,1988* which has since undergone several amendments. The Statement of Objects and Reasons of the *MV Act,1988* is extracted below for ready reference:

> "2. Various Committees, like, National Transport Policy Committee, National Police Commission, Road Safety Committee, Low Powered Two - Wheelers Committee, as also the Law Commission have gone into different aspects of road transport. They have recommended updating, simplification and rationalization of this law. Several Members of Parliament have also urged for comprehensive review of the

Motor Vehicles Act, 1939, to make it relevant to the modern - day requirements.

3. A Working Group was, therefore, constituted in January, 1984 to review all the provisions of the Motor Vehicles Act, 1939 and to submit draft proposals for a comprehensive legislation to replace the existing Act. This Working Group took into account the suggestions and recommendations earlier made by various bodies and institutions like Central Institute of Road Transport (CIRT), Automotive Research Association of India (ARAI), and other transport organisations including, the manufacturers and the general public, Besides, obtaining comments of State Governments on the recommendations of the Working Group, these were discussed in a specially convened meeting of Transport Ministers of all States and Union territories. Some of the more important modifications so suggested related for taking care of –

(a) the fast increasing number of both commercial vehicles and personal vehicles in the country ;

(b) the need for encouraging adoption of higher technology in automotive sector;

(c) the greater flow of passenger and freight with the least impediments so that islands of isolation are not created leading to regional or local imbalances;

(d) concern for road safety standards, and pollution-control measures, standards for transportation of hazardous and explosive materials;

(e) simplification of procedure and policy liberalization for private sector operations in the road transport field ; and

(f) need for effective ways of tracking down traffic offenders."

13. As per the Statement of Objects and Reasons, the important provisions addressed the following:

"(a) rationalization of certain definitions with additions of certain new definitions of new types of vehicles;

(b) stricter procedures relating to grant of driving licences and the period of validity thereof;

(c) laying down of standards for the components and parts of motor vehicles;

(d) standards for anti-pollution control devices;

(e) provision for issuing fitness certificates of vehicles also by the authorised testing stations;

(f) enabling provision for updating the system of registration marks;

(g) liberalised schemes for grant of stage carriage permits on non nationalised routes, all-India Tourist permits and also national permits for goods carriages;

(h) administration of the Solatium Scheme by the General Insurance Corporation;

(i) provision for enhanced compensation in cases of "no fault liability" and in hit and run motor accidents;

(j) provision for payment of compensation by the insurer to the extent of actual liability to the victims of motor accidents irrespective of the class of vehicles;

(k) maintenance of State registers for driving licences and vehicle registration;

(l) constitution of Road Safety Councils.

6. The Bill also seeks to provide for more deterrent punishment in the cases of certain offences."

14. The above would suggest that the enactment of the *MV Act,1988* was driven, *inter alia,* by the rapidly increasing number of vehicles in the country, the development of the road sector and the need to promote the adoption of advanced technology in the automotive sector. It is also essential to note that the Law Commission, in particular, had made various recommendations concerning provisions of the *MV Act, 1939* and *MV Act, 1988* in its

Report Nos. 85[9],106[10],119[11] and 149[12]. To further understand the objective of the *MV Act,1988* , we may refer to the 149th Report of the Law Commission titled 'Removing Certain Deficiencies in the Motor Vehicle Act,1988' which noted the challenges faced by victims and their families in seeking compensation under the *MV Act,1988* and the rising frequency of road accidents in the following words:-

> " The frequency of accidents caused by motor vehicles and the pitiable plight of the victims of such accidents and dependants have been the subject matter of comment by the Supreme Court in a number of cases. During recent years, the number of road accidents in the country have increased more alarmingly. Almost every day one finds in the newspapers, sad tales of road accidents. …. There is therefore an urgent need for streamlining the mechanism through which the victims or their legal representatives are compensated for their loss in such accidents so that they may be able to receive expeditiously an appropriate amount as compensation for the damages sustained by them. It is felt all round that victims of motor accidents and their legal representatives, where the accident is fatal, besides having grievously suffered as a result of the unfortunate event, are subjected to the agonies and uncertainties of a legal battle for a number of years for receiving the damages due to them through the process of Court. Of late, Lok Adalats have been settling the cases of such nature but it has been found that the victims or their legal representatives are compelled to be satisfied with a paltry sum out of the damages claimed by them. Such persons have no other option but to settle the dispute because they do not know for how many more years they will have to litigate for receiving the

[9] Law Commission of India, 'Claims for compensation under Chapter 8 of the Motor Vehicles Act, 1939'(85th Report,1980)
[10] Law Commission of India, 'Section 103A, Motor Vehicles Act, 1939: effect of Transfer of a Motor Vehicle on Insurance' (106th Report,November,1984)
[11] Law Commission of India, Access of Exclusive Forum for Victims of Motor Accidents under the Motor Vehicles Act, 1939 (119th Report, February,1987)
[12] Law Commission of India, Removing Certain Deficiencies in the Motor Vehicles Act,1988(149th Report,1994)

> damages. In the backdrop of these and other related matters, the law commission has suo moto taken up the exercise of finding a solution to some of the problems relating to the Motor Vehicle Act and giving their appropriate recommendations thereon."

15. The *MV Act,1988* is fundamentally a social welfare legislation[13] enacted with the objective of providing a mechanism for victims and their families to seek compensation for loss or injury resulting from road accidents. Additionally, its provisions regarding licensing and penalties for traffic violations serve the broader purpose of promoting road safety. Being a welfare legislation, it must be interpreted in a manner so as not to deprive the claimants of the benefit of the legislation. Any interpretation of its provisions must reflect the *dual* purpose, of not only as a mechanism for ensuring timely compensation and relief for victims of road accidents but also in promoting overall road safety.

16. The issue in this reference is whether an individual holding an LMV license can legally drive a transport vehicle if it falls within the stipulated weight limit of 7,500 kgs. The genesis of the issue stems from disputes regarding the payment of claims by insurance companies for accidents involving 'transport vehicles' operated by individuals holding licenses to drive 'light motor vehicles'. The

[13] Skandia Insurance Co. Ltd. v Kokilaben Chandravadan AIR 1987 SC 1184; Sohan Lal Passi v Sesh Reddy AIR 1996 SC 2627

question before this Court is not one of statutory interpretation but also involves concerns of road safety and public welfare. In interpreting any statute, it is always prudent to keep an eye on the object and purpose of the statute, as well as the underlying reason and the spirit behind it. However, we are conscious of not overstepping into the policy domain which is essentially the prerogative of the legislature. The legislature is uniquely positioned to examine the broader social, economic and safety considerations that underlie transportation policy and any changes to the law must be rooted in comprehensive public discourse and analysis. Having noted the broader objective of the MV Act, let us now discuss the statutory scheme.

(II) *Brief Overview of the MV Act and MV Rules*

17. It is a fundamental principle of statutory interpretation that 'construction is to be made of all the parts together and not of one part only by itself'[14]. When attempting to discern the meaning of a certain provision in a statute, it is essential to consider that provision within the broader context of the entire legislative framework. The context encompasses several other critical dimensions. First, it involves reading the statute as a whole.

[14] Subba Rao J in Gurmej Singh S v Sardar Pratap Singh Kairon, AIR 1960 SC 122

Second, it is also crucial to take into account any previous statutes that are in *pari materia*. Third, a comprehensive understanding of the general scope and purpose of the statute is essential. Finally, a critical aspect of interpreting any statutory provision also involves identifying the mischief that the legislation intended to address[15]. Therefore, a nuanced and thorough interpretation would lend clarity and consistency in the application of legal principles.

18. In this regard, Justice GP Singh in his seminal treatise on Interpretation of Statutes[16] had this to say:

> "It is a rule now firmly established- that the intention of the Legislature must be found by reading the statute as a whole. The rule is referred to as an "elementary rule" by Viscount Simonds; a "compelling rule" by Lord Somervell of Harrow; . and a "settled rule" by BK Mukherjee . "I agree", said Lord Halsbury, "that you must look at the whole instrument inasmuch as there may be inaccuracy and inconsistency; you must, if you can, ascertain what is the meaning of the instrument taken as a whole in order to give effect, if it be possible to do so, to the intention of the framer of it"."

19. Let us now start by noting and understanding the statutory framework of the *MV Act* and the MV Rules. A snapshot of all the chapters of *MV Act* is listed below:

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[15] R S Raghunath v State of Karnataka, AIR 1992 SC 81; Union of India v. Elphinstone Spg. and Wvg. Co. Ltd., (2001) 4 SCC 139; Powdrill v. Watson, (1995) 2 AC 394

[16] Justice G.P. Singh: *Principles of Statutory Interpretation* (LexisNexis,2016)

Chapter I- **Definitions**

Chapter II- **Licensing of drivers of motor vehicles**

Chapter III-Licensing of Conductors of Stage Carriages.

Chapter IV- **Registration of motor vehicles**.

Chapter V-**Control of Transport Vehicles**

Chapter VI- Special provisions relating to State Transport Undertakings

Chapter VII- Construction, Equipment and Maintenance of motor vehicles.

Chapter VIII-**Control of Traffic**

Chapter IX- Motor Vehicles temporarily leaving or visiting India

Chapter XI- **Insurance of Motor Vehicles against third party risks**

Chapter XII- Claims Tribunals

Chapter XIII- **Offences, Penalties and Procedure**

Chapter XIV-Miscellaneous

20. The MV Rules contain the following chapters:

Chapter I-Preliminary

Chapter II-Licensing of Drivers of Motor Vehicles

Chapter III- Registration of Motor Vehicles

Chapter IV- Control of Transport Vehicles

Chapter V- Construction, Equipment and Maintenance of Motor Vehicles

Chapter VI-Control of Traffic

Chapter VII-Insurance of Motor Vehicles Against Third Party Risks

Chapter VIII- Offences, Penalties and Procedure

Chapter IX- Examination of Good Samaritan and Enquiry

21. This court, to effectively address the issue, is primarily concerned with Chapter II of the *MV Act* and the *MV Rules* which relates to licensing of drivers of motor vehicles. The Forms concerning driving license appended to the MV Rules, may also bear a reference. Chapter II of the MV Act contains the provisions dealing with the necessity for a driving license, age limit, responsibility of owners of motor vehicles, restrictions on the holding of driving licenses and the restrictions on the grant of learner's licenses for certain vehicles. Section 8 and Section 9 contain provisions concerning the application for grant of a learner's license and driving license respectively. Section 10 which is important for our purpose deals with 'forms and contents of licenses to drive'. Chapter II also contains provisions for additions to the driving license, the licensing and regulation of schools or establishments for imparting instruction in driving of motor vehicles, the validity period of license, renewal, and revocation. Additionally, it also contains provisions concerning orders refusing or revoking driving licenses, driving licenses to drive motor vehicles belonging to Central Government, power of licensing authority to disqualify from holding a driving license or revoke such license, the power of Court to disqualify, suspend driving license in certain cases, the effect of the disqualification

order, endorsement, and the maintenance of National and State Registers of Driving licenses. Finally, it also contains provisions relating to the power of Central and State Government to make Rules.

22. The *MV Rules* contain the procedure concerning driving licenses in Chapter II. It covers, inter alia, general provisions, evidence as to the correctness of address and age, medical certificate, educational qualifications, preliminary test, application for a driving license, driving test, form of driving license, renewal, driving schools and establishments, duration of license, duplicate license as well as the training syllabus.

23. The MV Act and MV Rules work in tandem, like two wheels in the same axle, to form a comprehensive legal framework governing motor vehicles in India. While the Act provides the backbone, the Rules provide specific provisions for implementation.

(III) *Construing Section 2(21), Section 3 and Section 10*

24. To understand the divergent interpretations on the core issue of whether a holder of a LMV license can operate a 'transport vehicle' weighing less than 7,500 kgs, it will be necessary to first consider the relevant definition(s) contained in Section 2 of the *MV Act.* The definitions deserving scrutiny are noted below for ready

reference. The definition of Section 2 interestingly begins with the clarificatory preface, 'unless the context otherwise requires':

2(10) "**driving licence**" means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive, otherwise than as a learner, a motor vehicle or a motor vehicle of any specified class or description."

2(15) "**gross vehicle weight**" means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle;"

2(16) "**heavy goods vehicle**" means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which, exceeds 12,000 kilograms;"

2(17) "**heavy passenger motor vehicle**" means any public service vehicle or private service vehicle or educational institution bus or omnibus the gross vehicle weight of any of which; or a motor-car the unladen weight of which, exceeds 12,000 kilograms;"

2(21) "**light motor vehicle**" means a transport vehicle or omnibus the gross vehicle weight of either of which or a motorcar or tractor or road-roller the unladen weight of any of which, does not exceed 7,500 kilograms;"

2(22) "**maxicab"** means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers, excluding the driver, for hire or reward;

2(23) "**medium goods vehicle**" means any goods carriage other than a light motor vehicle or a heavy goods vehicle;"

2(24) "**medium passenger motor vehicle**" means any public service vehicle or private service vehicle, or educational institution bus other than a motor-cycle, invalid carriage, light motor vehicle or heavy passenger motor vehicle;"

2(25) **“motorcab”** means any motor vehicle constructed or adapted to carry not more than six passengers excluding the driver for hire or reward.

2(26) **“motor-car"** means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor-cycle or invalid carriage.

2(27) **“motor cycle**” means a two-wheeled motor vehicle, inclusive of any detachable side-car having an extra wheel, attached to the motor vehicle.

2(28) “**motor vehicle”** or “vehicle” means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding1 [twenty-five cubic centimetres];

2(29) “**omnibus"** means any motor vehicle constructed or adapted to carry more than six persons excluding the driver.”

2(44) “**tractor"** means a motor vehicle which is not itself constructed to carry any load (other than equipment used for the purpose of propulsion); but excludes a road-roller;”

2(48) “**unladen weight**" means the weight of a vehicle or trailer including all equipments ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body;”

25. The term 'Transport Vehicle' is defined in Section 2(47) of the *MV Act* and each of the terms contained in the definition is separately defined in Sections 2(35),2(14), 2(11), 2(33) of the *MV Act:*

2(47) "**transport vehicle**" means a **public service vehicle**, a **goods carriage**, an **educational institution bus** or a **private service vehicle;"**

[emphasis supplied]

2(35) "**public service vehicle**" means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a maxi-cab, a motor-cab, contract carriage, and stage carriage;"

2(14) "**goods carriage**" means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods;"

2(11) "**educational institution bus**" means an omnibus, which is owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities;"

2(33) **"private service vehicle"** means a motor vehicle constructed or adapted to carry more than six persons excluding the driver and ordinarily used by or on behalf of the owner of such vehicle for the purpose of carrying persons for, or in connection with, his trade or business otherwise than for hire or reward but does not include a motor vehicle used for public purposes

26. Rule 2 of the MV Rules provides certain additional definitions. For instance, Rule 2(c) defines an 'agricultural tractor' as under:

"agricultural tractor" means any mechanically propelled 4-wheel vehicle designed to work with suitable implements for various field operations and/or trailers to transport

agricultural materials. *Agricultural tractor is a non-transport vehicle'*

[emphasis supplied]

27. Significantly, a non-transport vehicle is defined in Rule 2(h):

> "'non-transport vehicle" means a motor vehicle which is not a transport vehicle"

28. The definition of 'e-cart'[17], 'e-rickshaw'[18], 'Battery operated vehicle'[19], 'road ambulance'[20], 'school bus[21]', 'special purpose vehicle'[22], 'motor caravan'[23], 'puller tractor'[24] and different categories of vehicles such as 'Category L'[25] and 'Category M[26]' are also provided in the MV Rules.

29. The above definition(s) in the MV Act and MV Rules would indicate that they focus on various aspects including reference by (i) *weight* such as light motor vehicle and heavy goods vehicle; (ii) the *intended use* such as educational institution bus, public service or private service and also (iii) the vehicle *types* such as omnibuses and motor cars. Therefore, the scheme of the Act is not exactly either user-based or weight-based but is a combination of

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[17] Rule 2(cc)
[18] Rule 2(cb)
[19] Rule 2(u)
[20] Rule 2(zb)
[21] Rule 2(zc)
[22] Rule 2(zd)
[23] Rule 2(za)
[24] Rule 2(y)
[25] Rule 2(i)
[26] Rule 2(k)

both. It also takes into account the evolving transportation sector which is reflected in the introduction of new categories of vehicles through various amendments such as adapted vehicles, e-carts, and e-rickshaws. Notably, the Supreme Court has also recognized [27] that hybrid rickshaws, commonly referred to as 'jugaad' in India, fall under the definition of Motor Vehicle u/s 2(28) of the MV Act.

30. For our discussion, much turns on the definition of LMV contained in Section 2(21) of the MV Act:

> "light motor vehicle" **means** a **transport vehicle** or **omnibus** the **gross vehicle weight** of either of which or a **motorcar** or **tractor** or **road-roller** the **unladen weight** of any of which, does not exceed 7,500 kilograms."
>
> [emphasis supplied]

31. The term 'transport vehicle', 'gross vehicle weight', 'motor car', 'tractor', 'road roller', 'unladen weight' and 'gross vehicle weight' are also separately defined in the *MV Act* as noted earlier. In the context, Mr. Dave, Learned Senior Counsel appearing for one of the insurance companies presented to us a visual 1 page representation of the definition of LMV which being useful, is reproduced below:

[27] Rajasthan SRTC v. Santosh, (2013) 7 SCC 107

LMV u/ 2(21) **means**

Transport vehicle (u/ 2(47))-

- Public service vehicle
- Goods carriage
- Educational institution bus
- Private service bus

Omnibus (u/ 2(29))-

Any motor vehicle constructed/adapted to carry more than 6 persons, excluding driver

Gross vehicle weight of which u/ 2(15) means "total weight of vehicle and load certified and registered by the registering authority as permissible for that vehicle."

Motor car (u/ 2(26))-

Any motor vehicle other than transport vehicle, omnibus road roller tractor, motor cycle or adapted vehicle

Tractor (u/ 2(44))-

Means a motor vehicle which is not itself constructed to carry any load (other than equipment used for purpose of propulsion) but excludes a road roller

Road roller (not defined under the MV Act)

Unladen weight u/ 2(48) - weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body

Any of which does not exceed 7,500 Kilograms

32. A plain reading of the definition clause of LMV as is also clear from the diagram above shows that LMV, inter-alia, 'means' a 'Transport Vehicle'. The use of the word 'means' is crucial here which suggests specifics. When the statute says that a word or a phrase shall "mean" (instead of say "include"), it is quite certainly a 'hard and fast', strict and exhaustive definition. Such a definition is an explicit statement of the full connotation of a term.[28] It is a clear signal that the legislature did not wish to maintain a distinction between the two classes of vehicles. Such an explicit and specific definition leaves no room for ambiguity.

33. On the importance of definition sections, G.P. Singh in Interpretation of Statutes[29] has the following to say:-

> "In spite of severe criticism as to utility of definitions section or interpretation clauses, it is common to find in a statute "Definitions" of certain words and expressions used elsewhere in the body of the statute. The object of such a definition is to avoid the necessity of frequent repetitions in describing all the subject matter to which the word or expression so defined is intended to apply. For instance, the Supreme Court held that when the word "securities" has been defined under the Securities Contracts (Regulation) Act, 1956, its meaning would not vary when the same word is used at more than one place in the same statute, **as otherwise it will defeat the very object of the definitive section."**

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[28] *Gough* v. *Gough* [(1891) 2 QB 665 : 65 LT 110] referred in P. Kasilingam v PSG College of Technology AIR 1995 SC 1395; See also Punjab Land Development and Reclamation Corpn Ltd. v Presiding Officer, Labour Court (1990) 3 SCC 682

[29] Justice G.P. Singh: *Principles of Statutory Interpretation* (LexisNexis,2016)

[emphasis supplied]

34. As noticed earlier, Section 2 also begins with the phrase 'unless the context otherwise requires'. However, any contention based on a contrary context must avoid the risk of making the explicit definition, redundant or useless. Here we may usefully extract the following :-

> "..However, it is incumbent on those who contend that the definition given in the interpretation clause does not apply to a particular section to show that the context in fact so requires. **An argument based on contrary context which will make the inclusive definition inapplicable to any provision in the Act cannot be accepted as it would make the definition entirely useless.** Repugnancy of a definition arises only when the definition does not agree with the subject or context; any action not in conformity with the definition will not obviously make it repugnant to subject or context of the provision containing the term defined under which such action is purported to have been taken. When the application of the definition to a term in a provision containing that term makes it unworkable and otiose, it can be said that the definition is not applicable to that provision because of contrary context."[30]
>
> [emphasis supplied]

35. Considering the emphatic nature of the definition given in Section 2(21) which would suggest a strict interpretation, it would be logical to conclude that a light motor vehicle would *mean* a *transport vehicle*, omnibus, road roller, tractor, or motor car, provided the weight does not exceed 7,500 kgs. The definition as

[30] Justice G.P. Singh, Principles of Statutory Interpretation (LexisNexis,2016)

understood, has an important bearing on the issuance of licenses and permits.

36. The term "driving license", which is relevant for the present discussion, is defined under Section 2(10) of the *MV Act* as a license authorizing a person to operate a motor vehicle of "*any specified class or description*". Let us now read Section 10(2) titled, 'form and Contents of Licenses to drive' which lists the different classes of motor vehicles. It is contained in Chapter II which deals with 'Licensing of Drivers of Motor Vehicles'. A key amendment was carried out in the Section by deleting clauses (e), (f), (g) and (h) and all these were clubbed under a single head of "transport vehicle".

MV Act(pre amendment of 14.11.1994)	**MV Act (post amendment of 14.11.1994)**
10. Form and contents of licences to drive.—(1) Every learner's licence and driving licence, except a driving licence issued under section 18, shall be in such form and shall contain such information as may be prescribed by the Central Government. (2) A learner's licence or, as the case may be, driving licence shall also be expressed as entitling the holder to drive a motor vehicle of **one or more of the following classes**, namely:—	10. Form and contents of licences to drive.—(1) Every learner's licence and driving licence, except a driving licence issued under section 18, shall be in such form and shall contain such information as may be prescribed by the Central Government. (2) A learner's licence or, as the case may be, driving licence shall also be expressed as entitling the holder to drive a motor vehicle of **one or more of the following classes,** namely:— (a) motor cycle without gear; (b) motor cycle with gear; (c) invalid carriage1 ;

(a) motor cycle without gear; (b) motor cycle with gear; (c) invalid carriage; (d) *light motor vehicle**;*** **(e) medium goods vehicle** **(f)medium passenger vehicle;** **(g)heavy goods vehicle;** **(h) heavy passenger vehicle.**	(d) *light motor vehicle;* (e) **transport vehicle**; **(e)** deleted **(f)** deleted **(g)** deleted **(h)** deleted (i) road-roller; (j)motor vehicle of a specified description

37. In the context of the deletion of the classes of 'medium goods vehicle', 'medium passenger vehicle', 'heavy goods vehicle', and 'heavy passenger vehicle' and the introduction of a separate class of 'transport vehicle' through the 1994 amendment, the counsel for the insurance companies contended that a specific mention of 'transport vehicle' after the amendment would suggest that a separate endorsement would be necessary to drive a 'transport vehicle'. It was further submitted that even before the 1994 amendment, the second part of Section 3 always provided that a separate endorsement would be necessary.

38. Section 3 is titled 'Necessity for driving license' and reads as under:

> "3. Necessity for driving licence.-- (1) No person shall drive a motor vehicle in any public place unless he holds an effective driving licence issued to him authorising him to drive the vehicle; **and no person shall so drive a transport vehicle** [other than a motor cab or motor cycle hired for his own use or rented under any scheme made

under sub-section (2) of section 75] **unless his driving licence specifically entitles him so to do.**

(2) The conditions subject to which sub-section (1) shall not apply to a person receiving instructions in driving a motor vehicle shall be such as may be prescribed by the Central Government."

[emphasis supplied]

39. To deal with the above submission, let us take the hypothetical example of Sri - who let us say is desirous of driving an auto in the year 1990. The following option(s) of classes of vehicles would be available to Sri, as per unamended Section 10:

(a) motor cycle without gear;
(b) motor cycle with gear;
(c) invalid carriage;
(d) light motor vehicle**;**
(e) medium goods vehicle
(f)medium passenger vehicle;
(g)heavy goods vehicle;
(h) heavy passenger vehicle.

40. The applicant Sri would be required to fill the Form 4, prescribed under Rule 14 of MV Rules which was prevalent before 28.3.2001. The Form 4 is extracted below:-

"FORM 4

[*See* Rule 14]

Form of application for licence to drive a motor vehicle

To,

The licensing authority,

……

[Passport size photograph]

I apply for a licence to enable me to drive vehicles of the following description—

(*a*) Motorcycle without gear

(*b*) Motorcycle with gear

(*c*) Invalid carriage

(*d*) Light motor vehicle

(*e*) Medium goods vehicle

(*f*) Medium passenger motor vehicle

(*g*) Heavy goods vehicle

(*h*) Heavy passenger motor vehicle

(*i*) Roadroller

(*j*) Motor vehicle of the following description:

***

Certificate of test of competence to drive

The applicant has passed the test prescribed under Rule 15 of the Central Motor Vehicles Rules, 1989. The test was conducted on (here enter the registration mark and description of the vehicle) …… on (date)…….

The applicant has failed in the test.

(The details of deficiency to be listed out)

Date:…….

Signature of Testing Authority

…….

Full name and designation

Two specimen signatures of applicant:

Strike out whichever is inapplicable."

41. Form 4 above indicates that there is no mention of 'Transport Vehicle' for the purpose of obtaining a driving license. Moreover, there is no mention of a 'light goods vehicle' or a 'light passenger vehicle'. Therefore, if Sri applies for a 'Light Motor Vehicle' license,

which already *means* a 'Transport Vehicle' as per the definition of LMV contained in 2(21), can it be said that Sri cannot drive a 'Transport Vehicle' because '*his driving license specifically*' does not '*entitle him so to do*' as provided in the second part of Section 3? We think not. The specific authorization should not be understood to mean that Sri holding an LMV license which covers 'Transport vehicle', would be disentitled to drive a 'Transport Vehicle'. A question would then arise about the purpose of explicitly mentioning 'Transport Vehicle' in Section 3 (and other provisions as we will discuss later)? We may notice that there is no mention of the term 'light **goods** vehicle' or a 'light **passenger** vehicle' in Section 10 or in the definition section. On the other hand, a separate mention of 'medium **goods** vehicle', 'medium **passenger** vehicle', 'heavy **goods** vehicle' and 'heavy **passenger** vehicle' as incorporated in the Section 10 would suggest that it is primarily targeted towards 'Transport Vehicles' as opposed to a 'Light Motor Vehicle', which as earlier noticed could also be a 'Non-Transport Vehicle'. The emphasis in the second part of Section 3 should therefore be understood in relation to Medium and Heavy Vehicles in the statutory scheme even prior to the 1994 amendment. The reasonable interpretation of the second part of Section 3 should therefore pertain to a driving license for those driving 'medium

goods vehicle', 'medium passenger vehicle', 'heavy goods vehicle', and 'heavy passenger vehicle'. Such an interpretation and understanding would be logical because medium and heavy vehicles would require greater maneuverability and skill as compared to drivers of the LMV class. The subsequent amendment in Section 10 makes this position even clearer. The relevant portion of the Statement of Objects and Reasons of the Amendment Act 54 of 1994 may also guide us here and is reproduced below:

> "(a)The introduction of newer type of vehicles and fast increasing number of both commercial and personal vehicles in the country.
> (b) Providing adequate compensation to victims of road accidents without going into longdrawn procedure;
> (c) Protecting consumers' interest in Transport Sector;
> (d) Concern for road safe ty standards, transport of hazardous chemicals and pollution control;
> (e) Delegation of greater powers to State Transport Authorities and rationalising the role of public authorities in certain matters;
> (f) **The simplification of procedures** and policy liberalisation in the field of Road Transport;
> (g) Enhancing penalties for traffic offenders.
>
> The Bill inter alia provides for –
>
> (a) modification and amplification of certain definitions of new type of vehicles ;
> (b) **simplification of procedure for grant of driving licences;**
> (c) putting restrictions on the alteration of vehicles;
> (d) certain exemptions for vehicles running on non-polluting fuels;
> (e) ceilings on individuals or company holdings removed to curb "benami" holdings;

(f) states authorised to appoint one or more State Transport Appellate Tribunals;
(g) punitive checks on the use of such components that do not conform to the prescribed standards by manufactures, and also stocking / sale by the traders;
(h) increase in the amount of compensation of the victims of hit and run cases;
(i) removal of time limit for filling of application by road accident victims for compensation;
(j) punishment in case of certain offences is made stringent;
(k) a new pre-determined formula for payment of compensation to road accident victims on the basis of age/income, which is more liberal and rational."

[emphasis supplied]

42. The classes of 'medium goods vehicle', 'medium passenger vehicle', 'heavy goods vehicles', and 'heavy passenger vehicles' as earlier noted in the table, were subsumed under the class of 'Transport vehicle'. It can logically be inferred that the term 'Transport Vehicle' primarily targets vehicles exceeding 7,500 kgs, for the purpose of license regime. The intention of the legislature was to simplify the licensing framework for larger commercial vehicles and at the same time not interdict a LMV license holder to also drive a transport vehicle. The additional requirements for medium and heavy vehicles are also evident from unamended sub-section 1 of Section 7 which reads as under:

"Restrictions on the granting of learner's license for certain vehicles-

(1) No person shall be granted a learner's license-

(a) to drive a heavy goods vehicle unless he has held a driving license for atleast 2 years to drive a light motor vehicle or for at least one year to drive a medium goods vehicle.

(b) to drive a medium goods vehicle or a medium passenger vehicle unless he has held a driving license for atleast one year to drive a light motor vehicle."

[emphasis supplied]

43. The amended Section 7(1) however, states that:

> '7. Restrictions on the granting of learner's licences for certain vehicles:-
>
> [(1) No person shall 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**:]

Therefore, the classes of medium and heavy vehicles stood subsumed under 'transport vehicles'. Our view on the LMV licence holder's capability to drive a transport vehicle is also fortified by the unamended and amended Rule 10 of the MV Rules:

Rule 10*(pre-amendment)*	**Rule 10** *(post-amendment)*
"10. Application for learner's licence.— An application for the grant of a learner's licence shall be made in Form 2 and shall be accompanied by,— (a) save as otherwise provided in rule 6, a medical certificate in [Form 1-A]. (b) three copies of the applicant's recent 28 [passport size photograph] (c) appropriate fee as specified in rule 32, (d) in the case of an application for **medium goods vehicle, a medium passenger motor vehicle,**	10. Application for learner's licence.— An application for the grant of a learner's licence shall be made in Form 2 and shall be accompanied by,— (a) save as otherwise provided in rule 6, a medical certificate in [Form 1-A]. (b) three copies of the applicant's recent 28 [passport size photograph], (c) appropriate fee as specified in rule 32, (d) in the case of an application for **transport vehicle** excluding E-rickshaw or E-

a heavy goods vehicle or a heavy passenger vehicle, *the driving license held by the applicant."*	Cart, the driving licence held by the applicant] [(e) proof of residence (f) proof of age

44. The insertion of a separate class of 'Transport Vehicle' has led to some confusion in legal interpretation. In *National Insurance Co. Ltd. v. Annappa Irappa Nesaria*[31] (for short *"Annappa Irappa Nesaria"*), the issue before this Court was whether the driver of a Matador van weighing 3,500 kgs which had a 'goods carriage' permit could drive a 'transport vehicle', if he had a LMV license. The van, which was insured by the appellant, met with an accident on 9.12.1999, causing the death of respondent's wife. It was brought to the notice of the Court that the 1994 amendment to the MV Act, replaced "medium goods vehicle" and "heavy goods vehicle", with "transport vehicle." The 2-judge bench observed as under:

> "19. "Light motor vehicle" is defined in Section 2(21) and, therefore, in view of the provision, as then existed, **it included a light transport vehicle**. xx
>
> 20. From what has been noticed hereinbefore, it is evident that "transport vehicle" has now been substituted for "medium goods vehicle" and "heavy goods vehicle". The light motor vehicle continued, at the relevant point of time to cover

[31] (2008) 3 SCC 464

> both "light passenger carriage vehicle" and "light goods carriage vehicle". A driver who had a valid licence to drive a light motor vehicle, therefore, was authorised to drive a light goods vehicle as well."
>
> [emphasis supplied]

44.1. In the pertinent judgment, this Court held that the amendments carried out in 1994 had a prospective operation and at the time of the accident (pre-amendment), a driver holding a valid license to drive a 'Light Motor Vehicle' was also authorised to drive a 'light goods vehicle'. However, post-amendment, a separate endorsement would be necessary. Thus, the insurance company was held liable to remit the compensation since the accident occurred before the change in law.

44.2. The above interpretation on prospective application in the context of the 1994 amendment, however does not seem to be correct since the mention of the term 'Transport Vehicle', does not exclude transport vehicles that are already classified as 'LMV', under Section 10. If this interpretation were accepted, it would imply that medium or heavy vehicles would no longer require 'specific' endorsements, as those classes were removed by the amendment. This would lead to impractical outcomes.

44.3. The contention that since Light Motor Vehicles and Transport Vehicles are mentioned separately, those Transport

Vehicles which (weighing less than 7,500 kg) fall within the class of LMV would require the driver to have a separate driving license or an endorsement does not appeal well to our understanding. This would be contrary to the legislative intent. The classes mentioned therein do not appear like watertight compartments and some degree of overlap is discernible. An LMV license which typically covers two-wheelers may also be used for commercial activities like small-scale deliveries and the driver may not be required to obtain a separate endorsement for the 'Transport Vehicle' class. It is difficult to accept the argument that a driving license issued for a particular class is limited and the intention of the legislature was to exclude the Transport Vehicles falling within the LMV class. According to our understanding, the correct way to view the legal implication would be that 'transport vehicles' mentioned in Section 10 would cover only those vehicles whose gross vehicle weight is above 7,500 kgs. Such an interpretation aligns with the broader purpose of the amendments and ensures that the licensing regime remains efficient and practical for vehicle owners and drivers. We therefore partially overrule the decision in *Annappa Irappa Nesaria(supra)* for the view taken w.r.t the post-1994 amendment position.

45. Significantly, Section 10(2) states that a driving license 'shall also be expressed as entitling the holder to drive a motor vehicle of *one or more* of the following classes'. Therefore, the driver of a 'Light Motor Vehicle' is not per se disentitled to acquire a license for a 'Transport Vehicle' class, for driving vehicles above the weight of 7,500 kgs or those classes which do not fall in the definition of Light Motor Vehicle under Section 2(21). As rightly noted in *Mukund Dewangan(supra)*, Section 10 has to be read with Section 2(21) which defines a Light Motor Vehicle.

III. *Whether the interpretation in Mukund Devangan(2017) would render most provisions of the MV Act and MV Rules otiose?*

46. For the Insurance Companies, it was argued with much emphasis that sole reliance on Section 2(21) r/w Section 10 as held in *Mukund Dewangan(2017)* would render otiose, many provisions of the *MV Act* and this can have far-reaching implications. To appreciate this contention, a careful examination of the identified provisions is necessary. Is it correct to say that in order to drive a transport vehicle, an LMV license holder will require by law, an additional endorsement because the scheme of the Act provides a clear distinction between 'Light Motor Vehicle' and 'Transport

Vehicle'? The following table marking the distinction was placed before the Court for consideration:

Sr. No.	**Differentiating Factor**	**Provision Under M.V. Act / Rules**	**Light Motor Vehicle License**	**Transport Vehicle License**
			Age / Time Requirement	
(i)	*Age limit For Driving*	*Sec. 4*	*18 years and above* ***[S.4(1)]***	*20 years and above* ***[S.4(2)]***
(ii)	*Restriction on grant of Learner's License*	*Sec. 7(1)*	*No minimum requirement to obtain License for Light Motor Vehicle.*	*Must hold a Driving License for a Light Motor Vehicle for at least 1 year, to obtain Learner's License for Transport Vehicle.* ***[S. 7(1)]***
(iii)	*Training Period for Obtaining License*	*Rule 31*	*Not less than 21 days* ***[Rule 31(2)]*** ***(+)*** *Actual Hours of Driving shall not be less than 10 hours.* ***[Rule 31(4)]***	*Not less than 30 days* ***[Rule 31(3)]*** ***(+)*** *Actual Hours of Driving shall not be less than 15 hours.* ***[Rule 31(4)]***
			Medical Certificates	
(iv)	*Requirement of Medical Certificate for Learner's License*	*Sec. 8(3)*	*No requirement of Medical Certificate*	*Application for Grant of Learner's License must be accompanied by a Medical Certificate* ***[S.8(3)]***
(v)	*Requirement Of Medical Certificate For Renewal Of Licenses*	*Sec. 15*	*No requirement of Medical Certificate prior to attaining the age of 40 years.* ***[Second Proviso to S.15(1)]***	*Application Shall be accompanied by a Medical Certificate* ***[Second Proviso to S.15(1)]***
(vi)	*Self-Declaration Of Fitness Or Medical Certificate For License*	*Rule 5*	*Requirement of Self Declaration as to Physical Fitness.* ***[Rule 5(1)]***	*Requirement Of Medical Certificate by a Registered Medical Practitioner.* ***[Rule 5(1)]***

Driving Certificates				
(vii)	*Requirement Of Obtaining Driving Certificate from a Driving School for Obtaining Driving License*	*Sec. 9(4)*	*No requirement of obtaining Driving Certificate from a Driving School.*	*Application for grant of License Must be accompanied by a Driving Certificate Issued By a School or Establishment referred to in S.12 of M.V. Act.* ***[S.9(4)]***
(viii)	*Addition to Driving License to be supported by Driving Certificate*	*Rule 17(1)(b)*	*No such requirement*	*Application for Addition of Transport Vehicle shall be accompanied by a Driving Certificate in Form 5 of the Rules.* ***[Rule 17(1)(b)]***
Separate Vehicle / Separate License				
(ix)	*Necessity for Permits*	*Sec. 66*	*No requirement of a Permit.*	*Permit from the Regional, or State Transport Authority is required to use a vehicle as Transport Vehicle.*
(x)	*Necessity for Driving License*	*Sec. 3*	*Effective License holder may drive.*	*Driving License must specifically entitle the Driver to drive the Transport Vehicle.*
(xi)	*Separate Class of Vehicles*	*Sec.10(2)*	***Section 10(2)(d)*** *– Light Motor Vehicle.*	***Section 10(2)(e)*** *– Transport Vehicle.*
Validity of Driving License				
(xii)	*Validity of Driving License.*	*Sec. 14*	*Valid for –* ***[S.14(2)(b)]*** *(i) Who has not attained 30 years of age on the date of issue / renewal – Valid till such person attains 40 years of age;* *(ii) Who has attained 30 years, but not attained 50 yrs. of age – Valid for 10 years;* *(iii)Who has attained 50 years, but not attained 55 yrs. of age – Valid till such person attains 60 years of age;* *(iv)Who has attained 55 years – Valid for 5 years.*	*Valid for 5 years* ***[S.14(2)(a)]***

Other Differentiating Factors				
(xiii)	*Requirement of Uniform and Badges*	*Sec. 28*	*No such requirement*	*State Govt. may make Rules prescribing Badges and Uniform to be worn by Drivers of Transport Vehicles.* ***[S.28(2)(d)]***
(xiv)	*Duties, Functions and Conduct*	*Sec. 28*	*No such requirement*	*State Govt. may make Rules prescribing Duties and Conduct of such persons to whom license is issued to drive Transport Vehicles.* ***[S.28(2)(h)]***
(xv)	*Syllabus for obtaining License*	*Rule 31*	*Syllabus Part A, B, C, F, G and K* ***[Rule 31(2)]***	*Syllabus Part E, F, G, H, I, J and K* ***[Rule 31(3)]***

47. Analysis of the above provisions is now apposite. Chapter II addresses 'Licensing of Drivers of Motor Vehicles'. We have already noticed Section 3 earlier that covers the 'Necessity for Driving License' and specifically mentions 'Transport Vehicle'. Section 4, in sequence, is titled 'Age limit in connection with driving of motor vehicles'. Section 18 referred to in Section 4(2) concerns '*Driving Licenses to drive motor vehicles, belonging to the Central Government*'. Section 4(2) in its current form reads as under:

> "(1) No person under the age of eighteen years shall drive a motor vehicle in any public place:
>
> Provided that [a motor cycle with engine capacity not exceeding 50cc] may be driven in a public place by a person after attaining the age of sixteen years.
>
> (2) Subject to the provisions of section 18, no person under the age of twenty years shall drive a **transport vehicle** in any public place.
>
> (3) No learners licence or driving licence shall be issued to any person to drive a vehicle of the class to which he has

made an application unless he is eligible to drive that class of vehicle under this section."

[emphasis supplied]

48. Section 5 deals with the 'Responsibility of owners of motor vehicles for contravention of Section 3 and 4' and declares that:

> "No owner or person in charge of a motor vehicle shall cause or permit any person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle."

49. At this stage, we must also note the penal provisions i.e. Section 180 and Section 181 of Chapter XIII which deals with 'Offences, Penalties and Procedure':

> "180. *Allowing unauthorised persons to drive vehicles*.— Whenever, being the owner or person in charge of a motor vehicle, causes, or permits, any other person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both."
>
> "181. *Driving vehicles in contravention of section 3 or section 4*.— Whoever, drives a motor vehicle in contravention of section 3 or section 4 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both."

50. Section 6 deals with *'Restrictions on the holding of driving licenses'* and imposes, *inter alia,* general restrictions to prevent individuals from allowing others to use their driving license. Section 7(1) is important and provides that a Learner's license for a **transport vehicle** can only be issued to a person who has held a

driving license for a Light Motor Vehicle for atleast one year. The amended section reads as under:

> "7. Restrictions on the granting of learner's licences for certain vehicles.—
>
> [(1) No person shall 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**:]
>
> [Provided that nothing contained in this sub-section shall apply to an e-cart or e-rickshaw.]
>
> (2) No person under the age of eighteen years shall be granted a learner's licence to drive a motor cycle without gear except with the consent in writing of the person having the care of the person desiring the learner's licence."
>
> [emphasis supplied]

51. Section 8 deals with the 'Grant of Learner's license'. The requirement of medical certificate is contained in Section 8(3),Section 15 and Rule 5 of the MV Rules. Sub-section (3) of Section 8 as amended mandates that an application for a Learner's License for a *Transport Vehicle* must be accompanied by a Medical Certificate by a registered medical practitioner. However, the unamended Section 8 did not mention 'Transport Vehicle':

> "—8(1) Any person who is not disqualified under section 4 for driving a motor vehicle and who is not for the time being disqualified for holding or obtaining a driving licence may, subject to the provisions of section 7, apply to the licensing authority having jurisdiction in the area—
>
> (i) in which he ordinarily resides or carries on business, or (ii) in which the school or establishment referred to in section 12 from where he intends to receive instruction in driving a motor vehicle is situate, for the issue to him of a learner's licence.

(2) Every application under sub-section (1) shall be in such form and shall be accompanied by such documents and with such fee as may be prescribed by the Central Government. **(3)** Every application under sub-section (1) shall be accompanied by a medical certificate in such form as may be prescribed by the Central Government and signed by such registered medical practitioner, as the State Government or any person authorised in this behalf by the State Government may, by notification in the Official Gazette, appoint for this purpose:

XX]"

52. The amended 8(3) reads as under:

(3) Every application **[to drive a transport vehicle made]**under sub-section (1) shall be accompanied by a medical certificate in such form as may be prescribed by the Central Government and signed by such registered medical practitioner, as the State Government or any person authorised in this behalf by the State Government may, by notification in the Official Gazette, appoint for this purpose:"

[emphasis supplied]

53. Rule 5(1) of the amended MV Rules titled 'Medical Certificate' reiterates such a requirement. While for other vehicles, there is a requirement of a self-declaration of fitness, a Medical certificate by a registered Medical practitioner is necessary for driving a 'Transport Vehicle'. The *unamended Rule 5* which does not mention 'Transport Vehicle' reads as under:

"5. "Medical Certificate- Every application for the issue of a learner's licence or a driving licence or for making addition of another class or description of motor vehicle to a driving licence or for renewal of learner license or a driving license, shall be accompanied by a medical certificate in Form 1 issued by a registered medical practitioner referred to in sub-section (3) of section 8""

54. The *amended Rule 5* is also extracted below:

> "5. Medical Certificate- Every application for the issue of a learner's licence or a driving licence or for making addition of another class or description of a motor vehicle to a driving licence or for renewal of a driving licence to drive a vehicle other than a **transport vehicle** shall be accompanied by a self-declaration as to the physical fitness as in Form 1 and every such application for a licence to drive a **transport vehicle** shall be accompanied by a medical certificate in Form 1-A issued by a registered medical practitioner referred to in sub-section (3) of section 8"
>
> [emphasis supplied]

55. Section 15 titled 'Renewal of driving licenses', outlines the requirements for renewal within the time period provided therein. The second proviso to Section 15(1), mandates the requirement of a medical certificate for 'Transport Vehicle' and for those who are above the age of 40 years. The second proviso therein reads as under:

> "Provided further that where the application is for the renewal of a licence to drive a **transport vehicle** or where in any other case the applicant has attained the age of forty years, the same shall be accompanied by a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8, and the provisions of sub-section (4) of section 8 shall, so far as may be, apply in relation to every such case as they apply in relation to a learner's licence."
>
> [emphasis supplied]

56. Section 9 titled 'Grant of driving license' provides a comprehensive procedure for granting driving licenses. Section 9(1) addresses the jurisdiction involved in the licensing process. Under Section 9(2), anyone not disqualified from holding or

obtaining a driving license may apply, using a form prescribed by the Central Government. The applicant must also pass a test as specified in Section 9(3). Additionally, for those seeking a **Transport Vehicle** license, Section 9(4) mandates a minimum educational qualification set by the Central Government. Section 9(5) pertains to the requirement for re-taking the test after 7 days. Meanwhile, 9(6) states that the test of competence to drive must be carried out in a vehicle of the *type* to which the application refers. Section 9(7) deals with disqualification and Section 9(8) provides, inter alia, that the licensing authority may refuse to issue a licence to a habitual criminal or a habitual drunkard or who is habitually addicted to any narcotic drug or psychotropic substance or whose license had been revoked earlier. Section 9(4) which is relevant for our purpose is extracted below:

> "(4) Where the application is for a licence to drive a **transport vehicle**, no such authorisation shall be granted to any applicant unless he possesses such minimum educational qualification as may be prescribed by the Central Government and a driving certificate issued by a school or establishment referred to in section 12."
>
> [emphasis supplied]

57. Rule 17(1)(b) of the *MV Rules* stipulates that any application for adding a class of "Transport Vehicle" to a Driving License must be accompanied by a Driving Certificate:

> **"17. Addition to driving licence.—(1)** An application for the addition of another class or description of motor vehicle to the driving licence shall be made in [Form 2] to the licensing authority and shall be accompanied by—
> (a) an effective learner's licence and driving licence held by the applicant;
>
> (b) the driving certificate in Form 5, in the case of an application for addition of a **transport vehicle**, excluding E-rickshaw or E-cart."
>
> [emphasis supplied]

58. Section 14 of the Motor Vehicles Act outlines the validity period of driving licenses, distinguishing between those for 'transport vehicles' and 'transport vehicles carrying goods,' while also considering the age of the license holder. According to the amended section, individuals under 30 years of age will have their license valid until they reach 40 years, while those aged 30 to 49 will enjoy a 10-year validity period. For individuals aged 50 to 54, the license remains valid until they turn 60, and for those aged 55 and older, the validity is set at 5 years. This framework reflects the understanding that driving capabilities and experience may vary with age. The relevant part of Section 14 is extracted below:

> "14. Currency of licences to drive motor vehicles.—
>
> (1) A learner's licence issued under this Act shall, subject to the other provisions of this Act, be effective for a period of six months from the date of issue of the licence.
>
> (2) A driving licence issued or renewed under this Act shall,—
> (a) in the case of a licence to drive a **transport vehicle**, be effective for a period of **three years**: 1 *** 2 [Provided that in

the case of licence to drive a **transport vehicle carrying goods of dangerous or hazardous nature** be effective for a period of one year and renewal thereof shall be subject to the condition that the driver undergoes one day refresher course of the prescribed syllabus; and;]

xxxxxxxxxxxxxxxxxxxxxx"

[emphasis supplied]

59. Rule 10 is titled 'Application for Learner's license'. The unamended Rule 10 stated as under:

"10. Application for learner's licence.—

An application for the grant of a learner's licence shall be made in Form 2 and shall be accompanied by,—

(a) save as otherwise provided in rule 6, a medical certificate in [Form 1-A].

(b) three copies of the applicant's recent 28 [passport size photograph],

(c) appropriate fee as specified in rule 32,

[(d) in the case of an application for **medium goods vehicle, a medium passenger motor vehicle, a heavy goods vehicle or a heavy passenger vehicle,** *the driving license held by the applicant."*

[emphasis supplied]

60. The amended Rule 10 replaces these highlighted terms with the single term 'Transport Vehicle':

10. Application for learner's licence.—

An application for the grant of a learner's licence shall be made in Form 2 and shall be accompanied by,—

(a) save as otherwise provided in rule 6, a medical certificate in [Form 1-A].

(b) three copies of the applicant's recent 28 [passport size photograph],

(c) appropriate fee as specified in rule 32,

[(d) **in the case of an application for transport vehicle** excluding E-rickshaw or E-Cart, the driving licence held by the applicant]

[(e) proof of residence

(f) proof of age"

[emphasis supplied]

61. Section 27 concerns the power of Central Government to make Rules. Section 28 which deals with the power of the State Government to make rules provides specifically w.r.t. transport vehicles in sub-section 2(d) and 2(h) the following :-

"(d) the badges and uniform to be worn by drivers of **transport vehicles** and the fees to be paid in respect of badges"

(h) the duties, functions and conduct of such persons to whom licences to drive **transport vehicles** are issued

[emphasis supplied]

62. Rule 31(2) and (3) which deal with the syllabus provides as under:

31. Syllabus for imparting instructions, in driving of motor vehicles.—

(1) The syllabus for imparting instructions in driving of motor vehicles of the schools or establishments shall be as follows (see tables below):

[(2) The lessons for training drivers of **non-transport vehicles** shall cover Parts A, B, C, F, G and K of the syllabus referred to in sub-rule (1) and the training period shall not be less than twenty-one days: Provided that in case of motorcycles, it shall be sufficient compliance of the provisions, if portion of Part C of syllabus as applicable to such vehicles are covered.

> (3) The lessons for training drivers of **transport vehicles** shall cover Parts E, F, G, H, I, J and K of the syllabus referred to in sub-rule (1) and the training period shall not be less than thirty days"
>
> [emphasis supplied]

63. Chapter V of the MV Act specifically deals with 'Control of Transport Vehicles'. Section 66 deals with 'Necessity for Permits' and prohibits an owner of a motor vehicle to use or to permit the use of the motor vehicle as a *transport vehicle* in any public place save in accordance with the conditions of permit, granted by an appropriate authority:

> "66. Necessity for permits.—(1) No owner of a motor vehicle shall use or permit the use of the vehicle as a **transport vehicle** in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used:…"
>
> [emphasis supplied]

64. The necessity for a permit and the need for driving license are two different requirements and the distinctions thereof must be borne in mind.

65. The aforenoted provisions are pressed into service to contend that the legislature has placed LMVs and Transport Vehicles under separate classes. For each class of vehicle, varying degrees of scrutiny are provided and the argument on behalf of Insurance

Companies is that the holder of a LMV license is disentitled to drive a Transport Vehicle and a separate endorsement would be necessary for driving a vehicle of the other class.

66. Reading the various provisions as noticed above appears to pull the reader into two distinct spheres and this might make the legal implications unworkable. The principle of harmonious constructions of statutes should guide us to unravel this vexed question.

(a) Harmonious Construction

67. In *Sultana Begum v. Prem Chand Jain*[32], this Court examined the relevant precedents of this Court and articulated the following principles on harmonious construction of statutes:

> "a. It is the duty of the courts to avoid a head-on clash between two sections of the Act and to construe the provisions which appear to be in conflict with each other in such a manner as to harmonise them;
>
> b. The provisions of one section of a statute cannot be used to defeat the other provisions unless the court, in spite of its efforts, finds it impossible to effect reconciliation between them;
>
> c. When there are two conflicting provisions in an Act, which cannot be reconciled with each other, they should be so interpreted that, if possible, effect should be given to both. This is the essence of the rule of harmonious construction;
>
> d. *The courts have also to keep in mind that an interpretation which reduces one of the provisions to a*

[32] 1997 (1) SCC 373

"dead letter" or "useless lumber" is not harmonious construction; and

e. *To harmonize is not to destroy any statutory provision or to render it otiose."*

[emphasis supplied]

68. Keeping the above principles in mind, let us proceed further. The relevant provisions of the *MV Act* and the *MV Rules* would show that the term 'Transport Vehicle' is frequently referenced in various Sections and Rules. Most of these provisions were not noticed in *Mukund Dewangan(2017).* It is true that the legislature has imposed additional requirements for 'Transport Vehicles'. But should it be enough to say that a 'Light Motor Vehicle' license holder is legally incapable of driving a transport vehicle although its gross vehicle weight is below 7500 kg, as is suggested by the counsel for the insurance companies? In our view, such a manner of interpretation would render superfluous and otiose the precise and compact definition of LMV given in Section 2(21) which so significantly uses the expression 'means'. When questions on the relevance of Section 2(21) was raised, the following points were made:-

(a) Section 2(21) which includes Transport Vehicles is for a different regime, set under Section 113 which places limitation both on weight and usage of the vehicle. Section

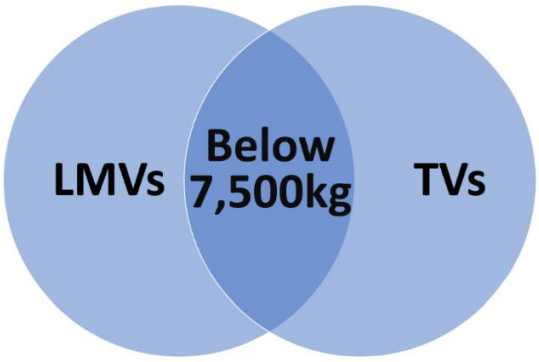
115 empowers the authority to restrict the driving of any vehicle of a specified class or description. These sections are contained in Chapter VII which is titled 'Control of Traffic' and pertain to 'limits of weight and limitations on use' and 'power to restrict the use of vehicles'. Vehicles of specific weight may be prohibited from certain roads or areas making weight a relevant factor. Under the said definition of LMV, 'weight' has been kept as a factor for demarcation between 'LMV' and 'Transport' vehicles primarily for the purposes of determining the 'road tax'.

(b) Section 41(4) outlines the necessity of specifying the exact type of vehicle—including its design, construction, and intended use—during the registration process. It was contended that this is where weight becomes a critical factor.

(c) Weight is considered in Section 44(ae) of the *Income Tax Act 1961,* which concerns incomes derived from transport vehicles.

69. The above submissions which mention the weight of the vehicle are in different context and can't be used to render section 2(21) i.e. the definition, a dead letter. If the definition clause was

worded differently, one might possibly argue that a distinction could be made between Transport Vehicles and LMVs. But the use of the word 'means', points towards the categorical intent of the legislature. When a Court is faced with two interpretations, one of which would have the effect of rendering a provision a 'dead letter', the interpretation that allows for such violence to the key words in the statute must be avoided. An attempt at harmonization would therefore be in order. Let us analyse the issue further by considering the following overlapping diagram:



70. The above illustration indicates that all Transport Vehicles are not Light Motor Vehicles but some may fall within the *class* of LMVs which is represented by the overlapping section. The inference therefore is that if the transport vehicle falls under the definition of Light Motor Vehicle in Section 2(21), the additional requirements as outlined in the provisions noticed above, need not be satisfied by a person holding a driving licence for a 'Light Motor Vehicle' *class*. Consequently, a separate endorsement of a

Transport Vehicle is not necessary as the LMV license would suffice for vehicles below 7500 kg weight. Such an interpretation would harmonize the statutory provisions by requiring the additional factors only for those Transport vehicles whose gross weight exceeds 7500 kg.

71. It was additionally argued that the principle of *generalia specialibus non derogant* would apply in this case. Section 2(21) is a general provision defining a Light Motor Vehicle which includes a 'Transport Vehicle,' whereas Section 3 is a specific provision that prohibits driving a 'transport vehicle' without a separate license endorsement. According to Mr. Jayant Bhushan, Section 3 should take precedence, requiring a separate endorsement under the 'Transport Vehicle' class.

72. To address the argument, let us consider the following passage by Lord Herschell LC *in Institute of Patent Agents & Ors. v. Joseph Lockwood*[33] :

> "Well, there is a conflict sometimes between two sections to be found in the same Act. You have to try and reconcile them as best you may. If you cannot, you have to determine which is the leading provision and which the subordinate provision, and which must give way to the other."

[33] 1894 A.C. 347 at 360

73. The important thing to note is that one provision must give way to the other *only when* reconciliation is not possible. However, when it is possible to harmonize the two, the Court need not determine which is the leading provision. As regards the argument of rendering second part of Section 3(1) otiose, let us again notice Section 3:

> "3. *Necessity for driving licence*.—(1) No person shall drive a motor vehicle in any public place unless he holds an effective driving licence issued to him authorising him to drive the vehicle; *and no person* ***shall so drive a transport vehicle*** *(other than a motor cab or motorcycle hired for his own use or rented under any scheme made under sub-section (2) of Section 75)* ***unless his driving licence specifically entitles him so to do****."*
>
> [emphasis supplied]

74. Section 3 refers to 'Transport Vehicles', like many other provisions in the *MV Act* and the *MV Rules*. Section 3 cannot however be construed as a special provision that would override the strict and emphatic definition of LMV, given in Section 2(21) and the separate class of 'Light Motor Vehicle' provided in Section 10. Section 2(21) uses the term 'means' as earlier emphasized and there is an affirmation of certainty in the wordings of the definition and it is to be recognized *sensu stricto* in a technical sense and must not be understood loosely. To say that Section 3 would disentitle the LMV license holders to drive transport

vehicles of the permissible weight category, would be incompatible and would render the strict definition clause, sterile and a 'dead letter'. A harmonious construction of both sections can however reach us to a conclusion that for LMV licence holders, a separate endorsement under 'Transport Vehicle' class would be unnecessary for driving LMV class of vehicles. In our interpretation and understanding, it would be logical to hold that the additional licensing requirements will have no application for the LMV class of vehicles but will be needed only for such 'Transport Vehicles', which by virtue of their gross weight fall in the Medium and Heavy category. Such a construction would also fulfill the legislative purpose which is to ensure road safety by requiring only those individuals who intend to operate medium and heavy vehicles, to satisfy the additional licensing criteria.In our view, the age restrictions outlined in Section 4, the requirement of a medical certificate, and the criteria under Section 7 should reasonably apply only for the medium and heavy transport vehicles whose gross weight will be above 7500 Kg. Such an interpretation would fulfill the objective of the MV Act to provide compensation to victims of road accidents while maintaining a commensurate licensing regime for drivers.

75. At this stage, it needs to be borne in mind that the genesis of the present reference arises from compensation claims. A reference to the judgment in *National Insurance Co. Ltd. v. Swaran Singh*[34] may therefore be apposite. A 3-judge bench of this Court noted that the liability of the insurance company in relation to the owner depends on several factors. The issue of lack of valid driving license was discussed as under**:**

> "7. If a person has been given a licence for a particular type of vehicle as specified therein, he cannot be said to have no licence for driving another type of vehicle which is of the same category but of different type. As for example, when a person is granted a licence for driving a light motor vehicle, he can drive either a car or a jeep and it is not necessary that he must have driving licence both for car and jeep separately.
>
> 89. Section 3 of the Act casts an obligation on a driver to hold an effective driving licence for the type of vehicle which he intends to drive. Section 10 of the Act enables the Central Government to prescribe forms of driving licences for various categories of vehicles mentioned in sub-section (2) of the said section. The various types of vehicles described for which a driver may obtain a licence for one or more of them are: (*a*) motorcycle without gear, (*b*) motorcycle with gear, (*c*) invalid carriage, (*d*) light motor vehicle, (*e*) transport vehicle, (*f*) road roller, and (*g*) motor vehicle of other specified description. The definition clause in Section 2 of the Act defines various categories of vehicles which are covered in broad types mentioned in sub-section (2) of Section 10. They are "goods carriage", "heavy goods vehicle", "heavy passenger motor vehicle", "invalid carriage", "light motor vehicle", "maxi-cab", "medium goods vehicle", "medium passenger motor vehicle", "motor-cab", "motorcycle", "omnibus", "private service vehicle", "semi-trailer", "tourist vehicle", "tractor", "trailer"

[34] (2004) 3 SCC 297

and "transport vehicle". In claims for compensation for accidents, various kinds of breaches with regard to the conditions of driving licences arise for consideration before the Tribunal as a person possessing a driving licence for "motorcycle without gear", [*sic* may be driving a vehicle] for which he has no licence. Cases may also arise where a holder of driving licence for "light motor vehicle" is found to be driving a "maxi-cab", "motor-cab" or "omnibus" for which he has no licence. In each case, on evidence led before the Tribunal, a decision has to be taken whether the fact of the driver possessing licence for one type of vehicle but found driving another type of vehicle, was the main or contributory cause of accident. If on facts, it is found that the accident was caused solely because of some other unforeseen or intervening causes like mechanical failures and similar other causes having no nexus with the driver not possessing requisite type of licence, **the insurer will not be allowed to avoid its liability merely for technical breach of conditions concerning driving licence.**

90. We have construed and determined the scope of sub-clause (*ii*) of sub-section (2) of Section 149 of the Act. **Minor breaches of licence conditions, such as want of medical fitness certificate, requirement about age of the driver and the like not found to have been the direct cause of the accident, would be treated as minor breaches of inconsequential deviation in the matter of use of vehicles**. Such minor and inconsequential deviations with regard to licensing conditions would not constitute sufficient ground to deny the benefit of coverage of insurance to the third parties."

[emphasis supplied]

76. The upshot of the above is that compensation must not be denied for minor technical breaches of the licensing conditions. It was submitted before this Court that the decision in *Mukund Dewangan(2017)* is *per incuriam* for not considering Para 89 of the

judgment. It is true that the Court pertinently notes therein that *"Cases may also arise where a holder of driving licence for "light motor vehicle" is found to be driving a "maxi-cab", "motor-cab" or "omnibus" for which he has no licence."* However, such an observation cannot be considered a conclusive determination by the Court to hold that a separate license for each of these vehicles would be necessary. Therefore, we are disinclined to accept such an argument.

b) *Interpretation must not result in impractical outcomes*

77. It is well-settled that a statute should be interpreted in a manner that avoids leading to unworkable or impractical outcomes[35]. If a statutory interpretation results in confusion, impracticability or creates burden that the legislature could not have intended, such an interpretation should be avoided. Mr. Jayant Bhushan, Learned Senior Counsel, placed reliance on Section 9(6) of MV Act and Rule 15(2) of MV Rules to argue that if one wants an endorsement of a 'transport vehicle' class, the person has to be *tested* on a 'transport vehicle' and not a 'Maruti-800 car'. Let us test this argument by again taking the hypothetical example of Sri who holds an LMV license and is

[35] Madan and Co. v. Wazir Jaivir Chand, (1989) 1 SCC 264

desirous of operating an auto for commercial purposes and as such applies separately for a license of a 'Transport Vehicle' class. Crucially, Section 9 dealing with 'Grant of driving license' provides in sub-section (6) as under:

> "(6) The test of competence to drive shall be carried out in a vehicle of the **type** to which the application refers:"

78. Sub-section (2) of Rule 15 of MV Rules titled 'Driving Test' read thus:

> "(2) The test of competence to drive referred to in sub-section (3) of section 9 shall be conducted by the licensing authority or such other person as may be authorised in this behalf by the State Government in a vehicle of the **type** to which the application relates."

79. The type of the vehicle referred above, under the 'Transport Vehicle' class could therefore either be a three-wheeler weighing less than 7,500 kgs or a heavy passenger vehicle of more than 12,000 kgs, if the class for which Sri applied is broadly taken as a 'transport Vehicle', with no distinction between heavy, medium or light category. Then our hypothetical driver Sri, although will be tested to drive an 'auto', could end up driving a heavy passenger vehicle using the 'Transport Vehicle' license. Such a conclusion on valid authority would be incompatible in the context.

80. Let us also look at the syllabus that would be prescribed for Sri for his application to drive a 'Transport Vehicle'. As noted earlier, for 'Transport Vehicles', the syllabus as per Rule 31 is contained in Part E,F,G,H,I,J and K:

Part A: Driving Theory-I
Part B: Traffic Education-I
Part C: Light Vehicles Driving Practice
Part D: Vehicle Mechanism and Repairs
Part E: *Medium and Heavy Vehicle Driving*: Driving Theory-II
Part F: Traffic Education—II
Part G. Public Relations For Drivers
Part H. *Heavy Vehicle Driving Practice*
Part I. Fire Hazards
Part J. Vehicle Maintenance
Part K. First Aid
the syllabus is contained in Part E,F,G,H,I,J and K:

81. Our hypothetical Sri, who wants to drive an auto would then be imparted training for the syllabus outlined in Parts E, F, G, H, I, J & K. These parts primarily pertain to 'Medium and Heavy Vehicle Driving'. The extensive syllabus covers topics such as fire hazards, heavy vehicle maintenance, cross-country practice and hill driving but those would hardly be germane for Sri who is desirous of driving only an auto rickshaw falling within the Light

Motor Vehicle class. The legislature in its wisdom had stipulated such a wide-ranging syllabus to augment the safety measures as considered apposite for operating medium and heavy motor vehicles. To apply this extensive level of learning for the auto driver Sri, would defy logic although auto is a 'transport vehicle' but of a light weight class. To avoid such an illogical outcome, the argument of Mr. Bhushan has to be rejected. It would therefore be appropriate to interpret the provision to declare that the additional requirements outlined in the *MV Act* for 'Transport Vehicle', would not cover the LMV class but would be applicable only for the heavy and medium class vehicles. Such an interpretation would align with our harmonious interpretation, as explained earlier. If the alternate interpretation as suggested by the counsel for the insurance companies is accepted, it would mean that Sri's driving skills may be tested on an autorickshaw but he would also be legally entitled to drive a heavy multi axle truck because of the broad class of 'Transport Vehicle'. Such an absurd result should not be permitted.

82. The requirement of uniforms and badges for 'transport vehicle' and the duties and conduct of such persons under Section 28(2)(d) and 28(2)(h) are not directly related to the licensing regime. Similarly misplaced here is the reliance on necessity for

Permit under Section 66 as also Rule 62 dealing with the 'Certificate of Fitness' of the vehicle. Rule 62 is extracted:-

> "62. Validity of certificate of fitness.—(1) A certificate of fitness in respect of a **transport vehicle** granted under section 56 shall be in Form 38 and such certificate when granted or renewed shall be valid for the period as indicated below:—
>
(a) new transport vehicle	Two years
(b) renewal of certificate of fitness in respect of vehicles mentioned in {a) above	One year
[(ba) renewal of certificate of fitness in respect of E-rickshaw and E-cart	Three years
renewal of certificate of fitness in respect of vehicles covered under rule 82 of these rules	One year
d) fresh registration of important vehicles	same period as in the case of vehicles manufactured in India having regard to the date of manufacture:

[emphasis supplied]

83. The apprehension about a person with a license of a light motor vehicle class being able to drive an e-rickshaw, e-cart, a vehicle carrying hazardous goods or even a road roller is also misplaced. This is for the reason that legislature has carved out exceptions for these special kinds of vehicles in the *MV Act* and the *MV Rule*s which is discernible from the following:.

(i) Section 28 deals with the power of State Government to make Rules. Clause (h) provides for "the exemption of drivers of **road rollers** from all or any of the provisions of this Chapter or of the rules made thereunder"

(ii) An exception is carved out in Section 7, 9 and 27 of *MV Act* for e-cart or e-rickshaw. For instance, the proviso to Section 7 states that "Provided that nothing contained in this section shall apply to an **e-cart or e-rickshaw**".

(iii) Similarly, Rule 8A provides for minimum training for driving E-rickshaw or E-cart. Rule 9 provides for educational qualifications for drivers of goods carriage carrying dangerous or hazardous goods.

Therefore, the present interpretation will not have any impact for such vehicles.

84. It was also argued that the form of the driving license provides for the validity period for 'Transport' and 'Non Transport Vehicle'. On this contention, we can benefit by the following words of Justice O. Chinnappa Reddy in *Life Insurance Corporation v.*

Escorts[36], where for a similar insistence on form, the Judge opined as under:-

> "Surely, the Form cannot control the Act, the Rules or the directions. As one learned Judge of the Madras High Court was fond of saying it is the dog that wags the tail and not the tail that wags the dog. We may add what this Court had occasion to say in Vasudev Ramchandra Shelat v. Pranlal Jayanand Thakar, [(1975) 1 S.C.R. 534 :AIR 1974 SC 1728 : 1974 (2) SCC 323 : 1975 (45) Com. Cas. 43.] :
>
> "The subservience of substance of a transaction to some rigidly prescribed form required to be meticulously observed, sevours of archaic and outmoded jurisprudence."

85. A harmonious interpretation of various sections would lead us to conclude that a person holding a LMV license is equally competent to drive a Transport Vehicle, provided of course the vehicle's gross weight does not exceed 7,500 kgs. The reference to 'transport vehicle' in Section 3(1) and other sections of the Act and Rules should therefore be understood as applying to only those vehicles which fall beyond the scope of the *sensu stricto* definition, under Section 2(21). This interpretation would ensure that no provision or word is rendered otiose and the licensing regime remains coherent with the legislative intent. Such an interpretation would also avoid illogical outcomes as discussed above.

[36] 1986 (2) SCC 264

V. *Discussion on the 8 Conflicting decisions*

86. The legal landscape surrounding the issue of whether a driver holding a license for a 'Light motor vehicle' can operate a 'Transport Vehicle' without obtaining a specific endorsement has been marked by a myriad of conflicting judgments. The genesis of the present reference stems from eight conflicting decisions which were thereafter referred to a 3-judge bench in *Mukund Dewangan(2017).* On the issue of Transport Vehicles of the LMV class being driven by a driver with a LMV License, in the event of an accident involving an insured vehicle, some opinions have held the insurance company liable to pay compensation while few others have noted that the driver did not have a valid license for a 'transport vehicle' although he was possessing a LMV license. On a few occasions, this Court had exercised its power under Article 142 to grant compensation despite noting that the driver did not possess a valid 'transport vehicle' license. Before proceeding any further, a short discussion of these decisions in chronological order would be appropriate for aiding clarity to the discussion.

87. The earliest decision on the issue was in 1999, in *Ashok Gangadhar Maratha v. Oriental Insurance Co. Ltd.*[37] *(for short*

[37] (1999) 6 SCC 620

"Ashok Gangadhar Maratha"). The definition of LMV at that time stipulated a weight limit of 6000 kgs. The facts in that case was that the appellant who was the holder of a LMV license, owned a Swaraj Mazda truck weighing 5,920 kgs, which got damaged in an accident on 26.11.1991. When the insurer refuted the claim, questioning the validity of the LMV driving license, the appellant filed a complaint before the Consumer Forum. The case traveled to the Supreme Court where a two-judge bench of this Court pertinently observed that a holder of a LMV license can drive a 'transport vehicle', without a specific endorsement and accordingly, compensation was granted to the claimants. The Supreme Court, *inter alia,* gave an important interpretation to Section 2(21) of the *MV Act* as well as Rule 2(e) of the *MV Rules* which defines a "non-transport vehicle". In Para 10, the Court pertinently observed as under:

> **"10.** The definition of "light motor vehicle" as given in clause (21) of Section 2 of the Act can apply only to a "light goods vehicle" or a "light transport vehicle". A "light motor vehicle" otherwise has to be covered by the definition of "motor vehicle" or "vehicle" as given in clause (28) of Section 2 of the Act. A light motor vehicle cannot always mean a light goods carriage. Light motor vehicle can be a non-transport vehicle as well."

88. The Court supplemented its reasoning in Para 11 as under:

> **"11.** To reiterate, since a vehicle cannot be used as a transport vehicle on a public road unless there is a permit issued by the Regional Transport Authority for that purpose and since in the instant case there is neither a pleading to that effect by any party nor is there any permit on record, the vehicle in question would remain a light motor vehicle. The respondent also does not say that any permit was granted to the appellant for plying the vehicle as a transport vehicle under Section 66 of the Act. Moreover, on the date of the accident, the vehicle was not carrying any goods and though it could be said to have been designed to be used as a transport vehicle or a goods carrier, it cannot be so held on account of the statutory prohibition contained in Section 66 of the Act."

89. The Court additionally noted that if one accepts the contention of the insurer, "there can never be any light motor vehicle and there can never be any driving licence for driving a light motor vehicle. We cannot put such a construction on clause (21) of Section 2 of the Act so as to exclude a light motor vehicle from the Act altogether."

89.1. Looking at the scheme of the *MV Act*, the above conclusion was the correct one declaring that an LMV would include a 'light good vehicle' or a 'light transport vehicle'. While the Court supplemented its reasoning by stating that a vehicle cannot be used as a transport vehicle on a public road unless there is a permit, we must understand that a 'license' is different from a 'permit'. The observations of the Court on the legal issue of a driving license, aligns with our own interpretation.

90. In *Nagashetty v United India Insurance Co*[38], the vehicle involved was a tractor with a trailer attached, filled with stones. The case revolved around an accident that occurred on 4.12.1995, when a tractor driven by the driver lost control and hit two pedestrians, resulting in the death of one person. The LRs of the deceased filed a compensation claim before the Motor Accident Claims Tribunal (MACT), which ruled in their favor and awarded compensation of ₹2,07,000 making the Insurance company liable for the insured tractor. The Insurance Company appealed before the High Court, contending that the driver only had a licence to operate a tractor and not a 'goods vehicle', as a trailer filled with stones was attached to the tractor, classifying it as a 'transport vehicle'. Deciding in favour of the Insurance Company, the High Court held that the licence was invalid for driving a 'transport vehicle', and therefore, the Insurance Company was not liable to pay the compensation to the claimants.

90.1. Setting aside the decision of the High Court, the Supreme Court held that a person having a valid driving license to drive a particular category of vehicle, does not become unauthorised to drive that category of vehicle, merely because a trailer is attached

[38] (2001) 8 SCC 56

to it. Interpreting the terms of the Insurance Policy, it was held that if the submission of the Insurance Co. is accepted, then every time, an owner of a private car, who has a license to drive an LMV, attaches a roof carrier to his car, and carries goods thereon, the LMV would become a Transport Vehicle, and the owner would then be deemed to have no valid license, to drive that vehicle.

90.2. It was rightly held in the above decision and as noted in *Mukund Dewangan(2017)*, that a vehicle cannot be readily classified as a 'transport vehicle' requiring a separate endorsement in the driving license. Although the Court supported its reasoning by referencing the insurance policy terms, the legal position remains that the term 'transport vehicle' overlaps with other vehicle classes.

91. Before this Court, reliance was placed on the judgment in *New India Assurance Company v Prabhu Lal*[39]*(for short "Prabhu Lal")*. The decision would now require our careful consideration. In this case, the accident which occurred on 17.4.1998 involved a Roadways bus (weighing 4,100 kgs) which was being driven by one M. This was however disputed by the insurance company who claimed that the vehicle was driven by the complainant's own

[39] (2008) 1 SCC 696

brother, who held a 'Light Motor Vehicle' license but not a 'transport vehicle' license. The District Forum held that a "goods carrier" weighing 4,100 kgs defined under Section 2(14) of the MV Act was driven by an individual with a LMV license and hence this was a Transport Vehicle under Section 2(47) of the MV Act for which, a separate endorsement was necessary. The State Commission however held that the principle laid down in the 1999 decision in *Ashok Gangadhar(supra)* would apply and since the gross weight of the vehicle was only 6,800 kgs, it did not exceed the permissible limits for LMV category vehicles. Accordingly, the Insurance company was held liable. The National Commission upheld the said decision of the State Commission, favouring the claimants.

91.1. Reversing the concurrent decisions of the State and National Commissions, the Supreme Court however restored the decision of the District Forum which held that at the time of the accident, complainant's brother was driving the insured vehicle. On the validity of the LMV driving license holder driving the bus weighing 4100 kg, this Court held that a separate endorsement was necessary to drive the Transport Vehicle. It was observed as under:

> "**33.** In our considered view, the State Commission was wrong in reversing the finding recorded by the District

Forum. So far as *Ashok Gangadhar* [(1999) 6 SCC 620 : 1999 SCC (Cri) 1170] is concerned, we will deal with the said decision little later but from the documentary evidence on record and particularly, from the permit issued by the Transport Authority, it is amply clear that the vehicle was a "goods carrier" [Section 2(14)]. If it is so, obviously, it was a "transport vehicle" falling under Clause (47) of Section 2 of the Act. The District Forum was, therefore, right in considering the question of liability of the Insurance Company on the basis that Tata 709 which met with an accident was "transport vehicle".

91.2. The Court in Para 40 and Para 41 also distinguished the 1999 judgement in *Ashok Gangadhar Maratha(supra)* with the following discussion:

"40**.** It is no doubt true that in *Ashok Gangadhar* [(1999) 6 SCC 620 : 1999 SCC (Cri) 1170] in spite of the fact that the driver was holding valid driving licence to ply light motor vehicle (LMV), this Court upheld the claim and ordered the Insurance Company to pay compensation. But, in our considered opinion, the learned counsel for the Insurance Company is right in submitting that it was because of the fact that there was neither pleading nor proof as regards the permit issued by the Transport Authority. In absence of pleading and proof, this Court held that, it could not be said that the driver had no valid licence to ply the vehicle which met with an accident and he could not be deprived of the compensation. This is clear if one reads para 11 of the judgment, which reads thus: (SCC p. 626)

> "*11.* To reiterate, *since a vehicle cannot be used as a transport vehicle on a public road unless there is a permit issued by the Regional Transport Authority for that purpose and since in the instant case there is neither a pleading to that effect by any party nor is there any permit on record, the vehicle in question would remain a light motor vehicle.* The respondent also does not say that any permit was granted to the appellant for plying the vehicle as a transport vehicle under Section 66 of the Act. Moreover, on the date of the accident, the vehicle was not carrying any

> goods and though it could be said to have been designed to be used as a transport vehicle or a goods carrier, it cannot be so held on account of the statutory prohibition contained in Section 66 of the Act."
>
> 41. In our judgment, *Ashok Gangadhar* [(1999) 6 SCC 620 : 1999 SCC (Cri) 1170] did not lay down that the driver holding licence to drive a light motor vehicle need not have an endorsement to drive transport vehicle and yet he can drive such vehicle. It was on the peculiar facts of the case, as the Insurance Company neither pleaded nor proved that the vehicle was transport vehicle by placing on record the permit issued by the Transport Authority that the Insurance Company was held liable."

91.3. In *Prabhu Lal* (supra), this Court correctly noted that the vehicle was a 'goods carrier' under Section 2(14) and fell within the definition of 'transport vehicle'. But then it strikingly overlooked that a 'transport vehicle' below 7500 kg unladen weight, would also be covered within the definition of LMV, under Section 2(21). This vital aspect was not discussed and the definition of Section 2(21) was also not adverted to in the judgment. The relevant portion of *Ashok Gangadhar Maratha(supra*) where it was held that the definition of 'light motor vehicle' can apply to 'light goods vehicle' as well as a 'light transport vehicle', was also overlooked. Instead the Court distinguished the judgment in *Ashok Gangadhar Maratha(supra)* on the basis of evidence and pleadings in that case. We have already noted earlier that the reasoning in *Ashok Gangadhar Maratha(supra)* w.r.t evidence and pleadings was only

an additional observation. We must not confuse 'permit' with a 'driving license' to drive a 'Transport Vehicle'. The Supreme Court in *Prabhu Lal(supra)* should have followed the decision in *Ashok Gangadhar Maratha(supra)* which clearly stated the legal position that a 'light motor vehicle' would include a 'light goods vehicle'.

92. The issue in *Annappa Irappa Nesaria(supra)*, as we have already discussed in Part III of the judgment, was whether a driver of a Matador van weighing 3,500 kgs, with a "goods carriage" permit, could drive a "transport vehicle" with just a LMV license. The van met with an accident before the 1994 amendments to the MV Act, when there was no separate class for "transport vehicle." The Court ruled that since the accident occurred before the amendment, the driver's LMV license was valid for the transport vehicle, and the insurance company was liable to pay compensation. However, the Court held that post-amendment, a separate endorsement for driving transport vehicles is required. We are disinclined to accept such a view as we have already discussed in our judgment earlier that both before and after the 1994 amendment, the enhanced requirements for 'Transport Vehicles' applied primarily for medium and heavy vehicles, particularly following the 1994 amendment. We have also discussed the unworkability of the broad class of 'Transport

Vehicles' and the inconsistency this creates with the other provisions of the MV Act and MV Rules, if such an interpretation is adopted.

93. In *New India Assurance Co. Ltd. v Roshanben Rahemansha Fakir* [40] (for short "*Roshanben Rahemansha Fakir*), the case involved an autorickshaw, classified as a three-wheeled transport vehicle, used for goods delivery. In this case, insurance company resisted the accident claim and argued that the driver did not have a valid driving licence for a 'transport vehicle'. The Supreme Court however reversed the decision of the Gujarat High Court and the MACT and noted that under *Section 14(2)(a)* of the *MV Act*, the renewal period for Transport Vehicle licences is three years, compared to twenty years for other vehicle categories. Based on this reasoning, the Court held that the driver was not authorised to drive the autorickshaw as he lacked the appropriate endorsement on his LMV License.

93.1. The above faulty conclusion was reached primarily because the Court failed to take into account Section 2(21), which defines a Light Motor Vehicle (LMV). Since an autorickshaw falls within the weight limit of an LMV, the driver's LMV licence should have

[40] (2008) 8 SCC 253

been deemed sufficient. The presumption on account of the validity of license for 20 years could be relevant only for such vehicles which are covered within Medium or Heavy categories.

94. *In Oriental Insurance Co. Ltd. v. Angad Kol*[41] *(for short "Angad Kol"),* the legal heirs of the deceased victim filed claim before the MACT, alleging that the deceased was fatally injured by a mini door auto (a goods carriage vehicle) on 31.10.2004 while she was standing at a location known as 'Hardi Turning'. The Insurance Company resisted the claim by contending that the driver did not possess a valid and effective licence to operate the vehicle. The Tribunal allowed the claim and directed the payment of Rs. 1,83,000/- holding that the driver's Light Motor Vehicle (LMV) licence was sufficient. This view was upheld by the High Court.

94.1. Setting aside the above decisions favouring the claim, a two-judge bench of this Court held that the holder of a LMV license must also obtain a separate endorsement for a transport vehicle. It noted that the definition of LMV under Section 2(21) of MV Act would bring within its umbrage a Transport Vehicle but a distinction exists between the two as per Section 3 which deals

[41] (2009) 11 SCC 356

with the necessity of a driving license. It was thus noted in Para 15 and 16 of the judgment:

> "15. Section 9 provides for "grant of driving licence". Section 10 prescribes the form and contents of licences to drive which is to the following effect:
>
> > "10. *Form and contents of licences to drive.*—(1) Every learner's licence and driving licence, except a driving licence issued under Section 18, shall be in such form and shall contain such information as may be prescribed by the Central Government.
> >
> > (2) A learner's licence or, as the case may be, driving licence shall also be expressed as entitling the holder to drive a motor vehicle of one or more of the following classes, namely:
> >
> > (*a*)-(*c*)***
> >
> > (*d*) light motor vehicle;
> >
> > (*e*) transport vehicle; [Substituted for clauses (*e*) to (*h*) by Act 54 of 1994, Section 8 (w.e.f. 14-11-1994).]
> >
> > (*i*) road roller;
> >
> > (*j*) motor vehicle of a specified description."
>
> *The distinction between a "light motor vehicle" and a "transport vehicle" is, therefore, evident. A transport vehicle may be a light motor vehicle but for the purpose of driving the same, a distinct licence is required to be obtained.*
>
> 16. The distinction between a "transport vehicle" and a "passenger vehicle" can also be noticed from Section 14 of the Act. Sub-section (2) of Section 14 provides for duration of a period of three years in case of an effective licence to drive a "transport vehicle" whereas in case of any other licence, it may remain effective for a period of 20 years."
>
> [emphasis supplied]

94.2. Relying on the judgment in *Prabhu Lal(supra)* which distinguished *Ashok Gangadhar Maratha(supra)*, the Court in *Angad KoI* held that a driver of the mini goods carriage auto holding a LMV license, need not have a license for a Transport Vehicle. The Court also referred to *Annappa Irappa Nesaria*(supra) to note that the amendment (applicable prospectively) specifically introduced the term 'Transport Vehicle' in Section 10. Following this amendment, a specific endorsement for driving a Transport Vehicle would be necessary. It was also noted that since the license was granted for 20 years, a presumption arose that it was for a vehicle other than a transport vehicle. It was ultimately held that the driver did not have a valid driving license, for driving a 'goods vehicle' and breach of conditions of the insurance policy was found apparent on the face of record. However, exercising its power under Article 142, this Court directed the Insurance Company to deposit the compensation amount before the Tribunal with liberty to the claimants to withdraw the same providing the right of recovery to the Insurance Company to recover the deposited sum from the owner and the driver of the vehicle.

94.3. Before this Court, the Counsel for the Insurance Companies placed reliance on the above decision in *Angad Kol(supra)* to argue

that there is a clear distinction between 'transport vehicle' and 'light motor vehicle'. Let us examine if such argument deserves our endorsement.

94.4. The decision in *Angad Kol(supra)* was rendered when *Prabhu Lal(supra)* and *Annapa Irappa Nesaria(supra)* held the field. However, as we have noticed earlier, *Prabhu Lal(supra)* conspicuously failed to notice the definition of LMV in Section 2(21) even though it considered the definition of Transport Vehicle. It also wrongly distinguished *Ashok Gangadhar Maratha(supra)*, where the legal position was clearly stated as under:

> "10. The definition of "light motor vehicle" as given in clause (21) of Section 2 of the Act can apply only to a "light goods vehicle" or a "light transport vehicle". A "light motor vehicle" otherwise has to be covered by the definition of "motor vehicle" or "vehicle" as given in clause (28) of Section 2 of the Act. A light motor vehicle cannot always mean a light goods carriage. Light motor vehicle can be a non-transport vehicle as well."

94.5. The Court in *Angad Kol(supra)* overlooked the crucial legal analysis in Para 9 and 10 and instead distinguished *Ashok Gangadhar Maratha(supra)* by relying on Para 11 where the Court only provided additional reasoning on the requirement of a 'permit'. A 'driving license' is different from a 'permit'. The conflation of the two terms led to the confusion. While a driving

license relates to a driver's qualification, a 'permit' relates to the vehicle's operational classification.

94.6. The Court in *Angad Kol(supra)* also relied on *Annapa Irappa Nesaria(supra)*, which held that the introduction of Transport Vehicles post-amendment would imply that a specific endorsement would be needed for Transport Vehicles. At the cost of repetition, even otherwise, a comprehensive reading of the MV Act and Rules shows that the specific mention of the term Transport Vehicle in different places of the Act and Rules for the purpose of driving license would reasonably be applicable only for those Transport Vehicles, that fall above the weight limit prescribed in Section 2(21) for LMVs.

95. In *S. Iyyapan v. United India Insurance Co. Ltd*[42]., the 2-judge bench relied on inter alia, *Ashok Gangadhar Maratha(supra)* and *Annappa Irappa Nesaria(supra).* The case stemmed from an accident involving a Mahindra Maxi Cab (a light motor vehicle) that led to the death of one person. The deceased's wife filed a claim before the Motor Accidents Claims Tribunal. The Tribunal awarded Rs. 2,42,000/- in compensation and held that a person holding a LMV License was entitled to drive a Mahindra Maxi Cab. The High

[42] (2013) 7 SCC 62

Court, however reversed this decision noting that the vehicle was used as a taxi and hence it was a commercial vehicle. It held that a separate license is necessary for driving a commercial vehicle. The Supreme court however restored the decision of MACT stating that the driver with a LMV license was legally competent to drive the Max Cab, used as a taxi. The Court additionally considered Sections 146, 147, and 149 of the MV Act and noted that under certain circumstances, insurers could limit their liability, but they were still bound to pay compensation to third parties. The right of third parties to compensation was protected by law, and the insurer could later recover the amount from the insured if any policy violation occurred. The Supreme Court categorically held that since the driver had a valid LMV licence, and the Mahindra Maxi Cab was classified as an LMV, the insurance company was liable to pay the compensation. The following was the relevant discussion for what appears to be the correct conclusion in *S Iyyappan(supra)*:-

> "18. In the instant case, admittedly the driver was holding a valid driving licence to drive light motor vehicle. There is no dispute that the motor vehicle in question, by which accident took place, was Mahindra Maxi Cab. Merely because the driver did not get any endorsement in the driving licence to drive Mahindra Maxi Cab, which is a light motor vehicle, the High Court has committed grave error of law in holding that the insurer is not liable to pay compensation because the driver was not holding the

> licence to drive the commercial vehicle. The impugned judgment [Civil Misc. Appeal No. 1016 of 2002, order dated 31-10-2008 (Mad)] is, therefore, liable to be set aside."

96. Similarly, in *Kulwant Singh v. Oriental Insurance Co. Ltd*[43],the question for consideration was whether the Insurance Company had recovery rights for breach of conditions of insurance policy when the driver possesses a valid driving licence for driving light vehicle but fails to obtain endorsement for driving goods vehicle? In that case, the L/Rs of the deceased had filed a claim before the MACT following a road accident death on 8.10.2005. The deceased was driving a tempo which was hit by a Tata-407 Tempo. The tribunal held that the claimants were entitled to compensation. The High Court, however, held that there was a breach of policy conditions and the insurance company was entitled to recover the compensation amount from the owner of the vehicle.

96.1. The 2-judge bench of the Supreme Court opined that the issue stands covered by the judgment in *S. Iyyapan(supra).* It therefore held that the insurance company could not avoid liability merely because, the driver did not have an endorsmement to drive a commercial vehicle.

[43] (2015a) 2 SCC 186

96.2 In view of the reasons assigned by us and as rightly noted in *Mukund Dewangan(2017*), the decisions in *S. Iyyapan(supra*) and *Kulwant Singh(supra)* were decided correctly. However, as regards the reliance on *Annappa Irappa Nesaria(supra)*, post-amendment in Section 10 also, the law continues to be the same for vehicles falling within the LMV category.

96.3. Therefore, the judgments where the Court has held that a separate endorsement for a 'transport vehicle' may not be necessary i.e. in *Ashok Gangadhar Maratha(supra)*, *Nagashetty(supra)*, *S. Iyyapan(supra)* and *Kulwant Singh(supra)* are found to align with our reasoning and interpretation and they are therefore upheld. In consequence, the three judgments which concluded otherwise i.e. *Prabhu Lal(supra)*, *Roshanben Rahemansha Fakir(supra)* and *Angad Kol(supra)* are overruled based on the reasoning provided by us in this judgment. The decision in *Annappa Irappa Nesaria(supra)* is partially overruled to the extent that the position even post-amendment would remain the same.

VI. Is *Mukund Dewangan(2017*) *per incuriam*?

97. Shifting gears, we may recall that the decision in *Mukund Dewangan(2017)* was doubted for not noticing certain provisions

of the *MV Act* and *MV Rules*. These include, inter alia, Section 4(1), 7, 14, the second proviso to Section 15 and Section 180 and 181 of the MV Act. It was therefore argued before this Court that the said decision is per incuriam. To begin with, it is useful to refer to some decisions that have expounded on the principle of per incuriam.

98. The term *per incuriam* is a Latin term which means 'by inadvertence' or 'lack of care'. English Courts have developed this principle in relaxation of the rule of stare decisis. In *Halsbury's Laws of England*[44] , the concept of *per incuriam* was explained as under:

> "A decision is given per incuriam when the court has acted in ignorance of a previous decision of its own or of a court of coordinate jurisdiction which covered the case before it, in which case it must decide which case to follow[45]; or when it has acted in ignorance of a House of Lords decision, in which case it must follow that decision; or when the decision is given in ignorance of the terms of a statute or rule having statutory force[46]. A decision should not be treated as given per incuriam, however, simply because of a deficiency of parties[47], or because the court had not the benefit of the best argument[48], and, as a general rule, the only cases in which decisions should

[44] Halsbury's Laws of England (4th Edn.) Vol. 26: *Judgment and Orders*: *Judicial Decisions as Authorities* (pp. 297-98, para 578)
[45] *Young* v. *Bristol Aeroplane Co. Ltd.*, 1944 KB 718 at 729 : (1944) 2 All ER 293 at 300
[46] *Lancaster Motor Co. (London) Ltd.* v. *Bremith Ltd.*, (1941) 1 KB 675 : (1941) 2 All ER
[47] Morelle Ltd. v. Wakeling, (1955) 2 QB 379 : (1955) 1 All ER 708 (CA)
[48] Bryers v. Canadian Pacific Steamships Ltd., (1957) 1 QB 134 : (1956) 3 All ER 560 (CA) Per Singleton, L.J., affirmed in Canadian Pacific Steamships Ltd. v. Bryers1958 AC 485 : (1957) 3 All ER 572.]

> be held to be given per incuriam are those given in **ignorance of some inconsistent statute or binding authority**[49]. Even if a decision of the Court of Appeal has misinterpreted a previous decision of the House of Lords, the Court of Appeal must follow its previous decision and leave the House of Lords to rectify the mistake."
>
> [emphasis supplied]

99. Lord Evershed in *Morelle Ld. V Wakeling*[50] (for short "Morelle") explained the concept as under:

> "As a general rule the only cases in which decisions should be held to have been given per incuriam are those of decisions given in ignorance or forgetfulness of some **inconsistent statutory provision** or of some authority binding on the court concerned; so that in such cases some part of the decision or some step in the reasoning on which it is based is found, on that account, to be demonstrably wrong"
>
> [emphasis supplied]

100. A few months after the decision in *Morelle(supra)*, the Constitution Bench of this Court in *Bengal Immunity Co. Ltd.* v. *State of Bihar*[51] adopted the *per incuriam* principle. It held that while Article 141 states that the Supreme Court's decisions are "binding on all courts within the territory of India," this does not extend to binding the Supreme Court itself, which remains free to reconsider its judgments in appropriate cases.

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[49] A. and J. Mucklow Ltd. v. IRC, 1954 Ch 615 : (1954) 2 All ER 508 (CA), Morelle Ltd. v. Wakeling, (1955) 2 QB 379 : (1955) 1 All ER 708 (CA), see also Bonsor v. Musicians' Union, 1954 Ch 479 : (1954) 1 All ER 822 (CA)

[50] Morelle LD v. Wakeling, (1955) 2 QB 379 (Court of Appeal).

[51] AIR 1955 SC 661.

101. In *Mamleshwar Prasad* v. *Kanhaiya Lal*[52] , reflecting on the principle of *per incuriam*, this Court speaking through Krishna Iyer J. held thus:

> "*7.* Certainty of the law, consistency of rulings and comity of courts — all flowering from the same principle — converge to the conclusion that a decision once rendered must later bind like cases. We do not intend to detract from the rule that, in exceptional instances, where by obvious inadvertence or oversight a judgment fails to notice a plain statutory provision or obligatory authority running counter to the reasoning and result reached, it may not have the sway of binding precedents. **It should be a glaring case, an obtrusive omission**. No such situation presents itself here and we do not embark on the principle of judgment per incuriam."
>
> [emphasis supplied]

102. In *A.R. Antulay* v. *R.S. Nayak*[53] , the Constitution Bench of this Court made the following observations:

> "*42.* It appears that when this Court gave the aforesaid directions on 16-2-1984, for the disposal of the case against the appellant by the High Court, the directions were given oblivious of the relevant provisions or law and the decision in *Anwar Ali Sarkar case* [*State of W.B.* v. *Anwar Ali Sarkar*, (1952) 1 SCC 1 : AIR 1952 SC 75 : 1952 Cri LJ 510] . See *Halsbury's Laws of England*, 4th Edn., Vol. 26, p. 297, para 578 and p. 300, the relevant Notes 8, 11 and 15; *Dias on Jurisprudence*, 5th Edn., pp. 128 and 130; *Young* v. *Bristol Aeroplane Co. Ltd.* [*Young* v. *Bristol Aeroplane Co. Ltd.*, 1944 KB 718 (CA)] Also see the observations of Lord Goddard in *Moore* v. *Hewitt* [*Moore* v. *Hewitt*, 1947 KB 831]

[52] (1975) 2 SCC 232
[53] (1988) 2 SCC 602

and *Nicholas* v. *Penny* [*Nicholas* v. *Penny*, (1950) 2 KB 466] .

"Per incuriam" are those decisions given in ignorance or forgetfulness of some inconsistent statutory provision or of some authority binding on the court concerned, so that in such cases some part of the decision or some step in the reasoning on which it is based, is found, on that account to be demonstrably wrong. SeeMorelle Ltd. v. *Wakeling* [*Morelle Ltd.* v. *Wakeling*, (1955) 2 QB 379 : (1955) 2 WLR 672 (CA)] . *Also seeState of Orissa* v. *Titaghur Paper Mills Co. Ltd.* [*State of Orissa* v. *Titaghur Paper Mills Co. Ltd.*, 1985 Supp SCC 280 : 1985 SCC (Tax) 538] We are of the opinion that in view of the clear provisions of Section 7(2) of the Criminal Law Amendment Act, 1952 and Articles 14 and 21 of the Constitution, these directions were legally wrong."

103. In *MCD v Gurnam Kaur*[54], A 3-Judge bench of this Court held that:

"11. ... A decision should be treated as given per incuriam when it is given in ignorance of the terms of a statute or of a rule having the force of a statute."

104. In *Punjab Land Development & Reclamation Corpn. Ltd.* v. *Labour Court*[55], a five-judge bench of this Court said the following in the context of the principle of *per incuriam* for ignoring statutory provisions :-

"*43.* As regards the judgments of the Supreme Court allegedly rendered in ignorance of a relevant constitutional provision or other statutory provisions on the subjects covered by them, it is true that the Supreme Court may not be said to "declare the law" on those subjects if the relevant provisions were not really present to its mind. But in this case Sections 25-G and 25-H were not directly attracted and

[54] (1989) 1 SCC 101
[55] (1990) 3 SCC 682

> even if they could be said to have been attracted in laying down the major premise, they were to be interpreted consistently with the subject or context. *The problem of judgment per incuriam when actually arises, should present no difficulty as this Court can lay down the law afresh, if two or more of its earlier judgments cannot stand together.*"
>
> [emphasis supplied]

105. In *N.Bhargavan Pillai v. State of Kerala*[56], a two-judge bench speaking through Arijit Pasayat J. noted that a judgment cannot be treated as a binding precedent, if it fails to notice a specific statutory bar:

> "14. Coming to the plea relating to benefits under the Probation Act, it is to be noted that Section 18 of the said Act clearly rules out application of the Probation Act to a case covered under Section 5(2) of the Act. Therefore, there is no substance in the accused-appellant's plea relating to grant of benefit under the Probation Act. The decision in Bore Gowda case [(2000) 10 SCC 260 : 2000 SCC (Cri) 1244] does not even indicate that Section 18 of the Probation Act was taken note of. In view of the specific statutory bar the view, if any, expressed without analysing the statutory provision cannot in our view be treated as a binding precedent and at the most is to be considered as having been rendered per incuriam. Looked at from any angle, the appeal is sans merit and deserves dismissal which we direct."

106. In *State of M.P. v. Narmada Bachao Andolan*[57], this Court reiterated**:**

> "67. Thus, "per incuriam" are those decisions given in ignorance or forgetfulness of some statutory provision or authority binding on the W.P.(C)Nos.7785, 7851, court concerned, or a statement of law caused by inadvertence or

[56] (2004) 13 SCC 217
[57] (2011) 7 SCC 639

conclusion that has been arrived at without application of mind or proceeded without any reason so that in such a case some part of the decision or some step in the reasoning on which it is based, is found, on that account to be demonstrably wrong."

107. Subsequently, in *Fuerst Day Lawson Ltd.* v. *Jindal Exports Ltd.*[58] this Court observed:

> "A prior decision of the Supreme Court on identical facts and law binds the Court on the same points of law in a later case. In exceptional instances, where by obvious inadvertence or oversight a judgment fails to notice a plain statutory provision or obligatory authority **running counter to the reasoning and result reached,** the principle of per incuriam may apply. **Unless it is a glaring case of obtrusive omission,** it is not desirable to depend on the principle of judgment 'per incuriam'. It has to be shown that some part of the decision was based on a reasoning which was demonstrably wrong, for applying the principle of per incuriam."
>
> [emphasis supplied]

108. In *State of Bihar* v. *Kalika Kuer*[59], the legal dilemma was noted as under:

> "*10*. … Easy course of saying that earlier decision was rendered per incuriam is not permissible and the matter will have to be resolved only in two ways — either to follow the earlier decision or refer the matter to a larger Bench to examine the issue, in case it is felt that earlier decision is not correct on merits."

[58] (2001) 6 SCC 356
[59] (2003) 5 SCC 448

109. In *Sundeep Kumar Bafna* v. *State of Maharashtra*[60], the Court expanded the definition of per incuriam in the Indian context and noted that:

> "A decision or judgment can also be per incuriam if it is not possible to reconcile its ratio with that of a previously pronounced judgment of a Co-equal or Larger Bench; or if the decision of a High Court is not in consonance with the views of this Court. It must immediately be clarified that the per incuriam rule is strictly and correctly applicable to the ratio decidendi and not to obiter dicta."

110. In a recent decision in *Shah Faesal v. Union of India*[61], a five judge bench of this Court reiterated that the principle of *per incuriam* only applies on the ratio of the case.

111. After having examined the above decisions, when dealing with the ignorance of a statutory provision, we may bear in mind the following principles. These may not however be exhaustive:

(i) A decision is *per incuriam* only when the overlooked statutory provision or legal precedent is central to the legal issue in question and might have led to a different outcome if those overlooked provisions were considered. It must be an inconsistent provision and a glaring case of obtrusive omission.

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[60] (2014) 16 SCC 623
[61] (2020) 4 SCC 1

(ii) The doctrine of *per incuriam* applies strictly to the *ratio decidendi* and does not apply to *obiter dicta.*

(iii)If a court doubts the correctness of a precedent, the appropriate step is to either follow the decision or refer it to a larger Bench for reconsideration.

(iv)It has to be shown that some part of the decision was based on a reasoning which was demonstrably wrong, for applying the principle of *per incuriam*. In exceptional instances, where by obvious inadvertence or oversight, a judgment fails to notice a plain statutory provision or obligatory authority running counter to the reasoning and result reached, the principle of per incuriam may apply.

112. Applying the above principles to the case at hand, let us now apply our mind to the reference made in the context of the decision in *Mukund Dewangan(2017*). The following questions were referred:

> "1. What is the meaning to be given to the definition of "light motor vehicle" as defined in Section 2(21) of the MV Act? Whether transport vehicles are excluded from it?
>
> 2. Whether "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 licence to drive the class of "light motor vehicle" as provided in Section 10(2)(*d*) would

be 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?

3. What is 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", "medium passenger motor vehicle", "heavy goods vehicle" and "heavy passenger motor vehicle" by "transport vehicle"? Whether insertion of expression "transport vehicle" under Section 10(2)(*e*) is related to said substituted classes only or it also excluded transport vehicle of light motor vehicle class from the purview of Sections 10(2)(*d*) and 2(41) of the Act?

4. What is the effect of amendment of Form 4 as to the operation of the provisions contained in Section 10 as amended in the year 1994 and whether the procedure to obtain the driving licence for transport vehicle of the class of "light motor vehicle" has been changed?"

113. The judgment in *Mukund Dewangan (2017),* shows that the *3* Judge Bench considered Section 2(21), 2(47) read with Section 10 of MV Act. The Court also examined the legislative intent behind the 1994 amendment to Section 10, noting that while the amendment introduced the term "transport vehicle" under Section 10(2)(e), it did not amend the definition of LMVs under Section 2(21). It was further observed that the newly inserted provision of Section 10(2)(e) would only subsume those classes of vehicles that were contained in Sections 10(2)(e) to 10(2)(h) of the un-amended Act i.e. medium goods vehicle, medium passenger vehicle, heavy goods vehicle and heavy passenger vehicle, and which now stand

deleted by virtue of the amendment of 1994. Since no amendment was carried out in Section 10(2)(d) of the Act which contains the class for 'Light Motor Vehicles', the scope of Section10(2)(d) would remain intact as is contained in Section 2(21) of the Act, which is to say that LMV would include 'Transport Vehicles' in cases where the gross weight of such vehicle is less than 7500 Kgs. It further noted that the syllabus does not provide separate training for transport vehicles but includes them under the relevant vehicle class based on the vehicle's weight. It considered Rule 75 which deals with 'State Register of motor vehicles' as provided in Form 41. Form 41 categorizes vehicles on the basis of, *inter alia*, gross vehicle weight, unladen weight etc. Likewise, the Court observed that Section 41, pertaining to registration, mandates the inclusion of relevant information as specified in Form 20, which outlines details such as the class of vehicle, gross vehicle weight, and unladen weight, among other factors.

114. The court analysed those key provisions of the Act and Rules and reached a conclusion which is aligned with the discussion and opinion in this judgment. It rightly concluded as under:

> "(i) '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 section 2(15) and 2(48). Such transport vehicles are not excluded

from the definition of the light motor vehicle by virtue of Amendment Act No.54/1994.

(ii) 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 road roller, '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 road-roller, 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 54/1994 and 28.3.2001 in the form.

(iii) The effect of the amendment made by virtue of Act No.54/1994 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.

(iv) 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."

115. It is true that *Mukund Dewangan (2017)* did not analyse the provisions that distinguish transport and non-transport vehicles, as noted in the reference orders. The statutory scheme of MV is

more nuanced than the simple weight-based distinction made in the said judgment. Moreover, the Court failed to notice Section 31(2) and 31(3) which specify 'Transport' and 'Non-Transport' vehicles. However, the judgment gave due consideration to the important statutory provisions. We have carefully looked at the relevant and the wide ranging provisions in our analysis in this decision. A harmonious interpretation, as we have explained earlier, would lead us to the same conclusion but fortified with some additional reasoning based on the consideration of all the relevant provisions. The overlooked provisions would not, in our considered opinion, alter the eventual pronouncement. Importantly, we do not notice any glaring error or omission that would alter the outcome of the case. Therefore, the ratio in *Mukund Dewangan (2017)* should not be disturbed by applying the principles of *per incuriam.*

F. IMPACT ON ROAD SAFETY

116. The counsel for the insurance Companies raised concerns regarding road safety, arguing that if the present law in *Mukund Dewangan(2017)* is not interfered with, unfit drivers will start plying Transport Vehicles putting at risk the lives of thousands of people. One of the supporting Intervenors placed reliance on Para

57 of the decision of this Court in *Savelife Foundation v. Union of India*[62] where this Court while exercising its public interest litigation jurisdiction under Article 32 of the Constitution of India held that the Right to life under Article 21 also includes the right to safety of persons travelling on the road. Per contra, in the intervention application filed on behalf of auto drivers, it was argued that the members of the Applicant Intervenor have been permitted to operate taxis and motorcabs while holding an LMV licence for the past almost 6 years. Reconsideration of the same is not merely an issue of insurance coverage, rather it directly pertains to the livelihood of those operating transport vehicles of the LMV class, thereby giving rise to a fair consideration of their rights under Article 19(1)(g). It was submitted that if this Court upsets *Mukund Dewangan(2017)*, which it should not, a transition period of 12-24 months be provided.

117. The above submissions will now require our consideration. It is true that in its PIL jurisdiction, this Court has passed orders in a myriad of cases including elevating the right of road safety to a fundamental right. It has also taken over policy areas[63] by

[62] (2016) 7 SCC 194

[63] See Ashok H Desai and S Muralidhar, 'Public Interest Litigation: Potential and Problems' in B.N Kirpal and others (eds), *Supreme but not Infallible* –

appointing Commissioners to gather facts or to take expert advice in the form of reports. However, this Court should be conscious that this is neither a Public Interest Litigation jurisdiction nor is the Court testing the constitutional validity of any of the provisions. Moreover, no empirical data has been produced before us to show that road accidents in India have increased as a direct result of drivers with LMV license, plying a transport vehicle of LMV class of vehicles whose gross weight is within 7500 Kg. Road safety is indeed an important objective of the *MV Act* but our reasoning must not be founded on unverified assumptions without any empirical data. The dangers of reasoning without empirical data[64] and beyond the statutory scheme of the Act must be avoided. While we are mindful of issues of road safety, the task of crafting policy lies within the domain of the legislature. As a constitutional court, it is not our role to dictate policy decisions or rewrite laws. We must be mindful of the institutional limitation to address such concerns.

118. The complexities surrounding the question of whether the Court should examine not only the existing laws and definitions,

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Essays in Honour of the Supreme Court of India (Oxford University Press 2000)

[64] Anuj Bhuwania, 'Courting the People— Public Interest Litigation in Post-Emergency India' (Cambridge University Press 2017).

but also the broader underlying issues of policy have been vividly captured in the following words from Salmond on Jurisprudence[65]:

> "Rules, which are originally designed to fit social needs, develop into concepts, which then proceed to take on a life of their own to the detriment of legal development. The resulting "jurisprudence of concepts" produces a slot-machine approach to law whereby new points posing questions of social policy are decided, not by reference to the underlying social situation, but by reference to the meaning and definition of the legal concepts involved. This formalistic a priori approach confines the law in a strait-jacket instead of permitting it to expand to meet the new needs and requirements of changing society. ……In such cases Courts should examine not only the existing laws and legal concepts, but also the broader underlying issues of policy. In fact presently, judges are seen to be paying increasing attention to the possible effects of their decision one way or the other…… Such an approach is to be welcomed, but it also warrants two comments. *First, judicial inquiry into the general effects of a proposed decision tends itself to be of a fairly speculative nature. Secondly, Too much regard for policy and too little for legal consistency may result in a confusing and illogical complex of contrary decisions; and while it is true that 'the life of the law has not been logic, it has been experience' and that we should not wish it otherwise, nevertheless we should remember that 'no system of law can be workable if it has not got logic at the root of it"*
>
> [emphasis supplied]

[65] P.J. Fitzgerald(Ed), 'Salmond on Jurisprudence' (12th edn, Sweet and Maxwell 1966)

119. What follows from the above is that wherever possible, the Court must attempt to be consistent in its approach. The principle of *stare decisis*, which mandates that courts adhere to established precedents, plays a crucial role in maintaining legal stability and predictability. The finding in *Mukund Dewangan(2017)* need not be disturbed owing to speculative concerns of road safety that intersect with broader policy issues.

120. We may recall that during the course of the present proceeding, the Central Government was arrayed and the learned Attorney General was requested to obtain instructions on whether the legislative wing would wish to examine and undertake an appropriate amendment on the legal question of whether a person holding a driving license for a light motor vehicle is entitled to legally drive a 'transport vehicle' of a specified weight. An order to this effect was passed in light of the possible social impact of the reference, particularly on road safety and the livelihood issue. Pursuant to this, the learned Attorney General submitted a note, *inter alia*, suggesting multiple amendments including a further classification of LMVs into LMV Class 1 and LMV Class 2, each with different weight thresholds.

121. Had the Parliament acted sooner to amend the *MV Act* and clearly differentiated between classes, categories and types, much of the uncertainty surrounding driving licenses could have been addressed, reducing the need for frequent litigation and an unclear legal terrain. The confusion and inconsistency in judicial decisions continued to persist for 25 years starting from the 1999 decision in *Ashok Gangadhar Maratha(supra).*

122. Road safety is a serious public health issue globally. It is crucial to mention that in India, over 1.7 lakh persons[66] were killed in road accidents in 2023. The causes of such accidents are diverse, and assumptions that they stem from drivers operating light transport vehicles with an LMV license are unsubstantiated. Factors[67] contributing to road accidents include careless driving, speeding, poor road design, and failure to adhere to traffic laws. Other significant contributors are mobile phone usage, fatigue, and non-compliance with seat belt or helmet regulations.

123. Driving a motor vehicle is a complex task requiring both practical skills and theoretical knowledge. Safe driving involves not

[66] Dipak K Dash, Accidents killed 474 on daily average in 2023 (October 20,2024) <https://timesofindia.indiatimes.com/india/accidents-killed-474-daily-on-average-in-2023/articleshow/114384171.cms>
[67] WHO(2023) Global Status Report on Road Safety India 2023 Country profile https://www.who.int/publications/m/item/road-safety-ind-2023-country-profile

only technical vehicle control[68] but also proficiency in various road conditions, including managing speed [69] , turns, and spatial awareness relative to other vehicles. Additionally, handling road gradients demands skill, particularly with brakes [70] and maneuvering. Effective driving requires awareness of road signs, adherence to traffic rules[71], and a focus on the road free from distractions. The core skills expected of all drivers apply universally, regardless of whether the vehicle falls into transport or non-transport categories.

124. At this juncture, it is also essential to note the scheme[72] devised in accordance with Section 75 of *MV Act* whereby the pre-requisites in the form of 'General Conditions' to be maintained by the 'holder of license' ensure safety and compliance. Certain guidelines[73] have also been enacted in so far as aggregators are concerned whereby chapters outlining 'Conditions for grant of licence for Aggregator', 'Compliance with regard to Drivers', 'Compliance with regard to Vehicles' as also 'Compliances to

[68] See MV Rules, Rule 31, Part D Vehicle Mechanism and Repairs
[69] See MV Act, Section 112 Limits of Speed
[70] See MV rules, Rule 31, Part A-Driving Theory-I,
[71] See MV Rules, Rule 31, Part B-Traffic Education-I and Part F-Traffic Education-II
[72] Rent a Cab Scheme, 1989; Vide S.O. 437 (E), dated 12th June, 1989, published in the Gazette of India, Extra. Pt. II, Sec. 3(ii), dated 12th June, 1989
[73] Motor Vehicle Aggregator Guidelines, 2020

ensure safety' further address the speculative concerns raised on behalf of the counsel for insurance companies.

G. CONCLUSION

125. The licensing regime under the *MV Act* and the *MV Rules*, when read as a whole, does not provide for a separate endorsement for operating a 'Transport Vehicle', if a driver already holds a LMV license. We must however clarify that the exceptions carved out by the legislature for special vehicles like e-carts and e-rickshaws[74], or vehicles carrying hazardous goods[75], will remain unaffected by the decision of this Court.

126. As discussed earlier in this judgment, the definition of LMV under Section 2(21) of the *MV Act* explicitly provides what a 'Transport Vehicle' 'means'. This Court must ensure that neither provision i.e. the definition under Section 2(21) or the second part of Section 3(1) which concerns the necessity for a driving license for a 'Transport Vehicle' is reduced to a dead letter of law. Therefore, the emphasis on 'Transport Vehicle' in the licensing scheme has to be understood only in the context of the 'medium'

[74] See Rule 8A of MV Rules,'Minimum training required for driving E-rickshaw or E-cart'
[75] See Rule 9 of MV Rules, 'Educational Qualification for drivers of goods carriages carrying dangerous or hazardous goods'

and 'heavy' vehicles. This harmonious reading also aligns with the objective of the 1994 amendment in Section 10(2) to simplify the licensing procedure[76].

127. The above interpretation also does not defeat the broader twin objectives of the *MV Act* i.e. road safety and ensuring timely compensation and relief for victims of road accidents. The aspect of road safety is earlier discussed at length. An authoritative pronouncement by this Court would prevent insurance companies from taking a technical plea to defeat a legitimate claim for compensation involving an insured vehicle weighing below 7,500 kgs driven by a person holding a driving license of a 'Light Motor Vehicle' class.

128. In an era where autonomous or driver-less vehicles are no longer tales of science fiction and app-based passenger platforms are a modern reality, the licensing regime cannot remain static. The amendments that have been carried out by the Indian legislature may not have dealt with all possible concerns. As we were informed by the Learned Attorney General that a legislative exercise is underway, we hope that a comprehensive amendment

[76] The classes medium goods vehicle[(10(2)(e)], medium passenger vehicle[10(2)(f)],heavy goods vehicle[10(2)(g)] and heavy passenger vehicle [10(2)(h)] were deleted and a new class 'Transport Vehicle' was introduced in Section 10(2)(e).

to address the statutory lacunae will be made with necessary corrective measures.

129. Just to flag one concern, the legislature through the 1994 amendment in Section 10(2)(e) in order to introduce 'transport vehicle' as a separate class could not have intended to merge light motor vehicle (which continued as a distinct class) along with medium, and heavy vehicles into a single class. Else, it would give rise to a situation in which Sri (our hypothetical character), wanting to participate in the *cycling* sport, is put through the rigorous training relevant only for a multisport like *Triathlon,* which requires a much higher degree of endurance and athleticism. The effort therefore should be to ensure that the statute remains practical and workable.

130. Now harking back to the primary issue and noticing that the core driving skills (as enunciated in the earlier paragraphs), expected to be mastered by all drivers are universal – regardless of whether the vehicle falls into "Transport" or "Non-Transport" category, it is the considered opinion of this Court that if the gross vehicle weight is within 7,500 kg - the quintessential common man's driver Sri, with LMV license, can also drive a "Transport Vehicle". We are able to reach such a conclusion as none of the

parties in this case has produced any empirical data to demonstrate that the LMV driving licence holder, driving a 'Transport Vehicle', is a significant cause for road accidents in India. The additional eligibility criteria as specified in *MV Act* and *MV Rules* as discussed in this judgment will apply only to such vehicle ('medium goods vehicle', 'medium passenger vehicle', 'heavy goods vehicle' and 'heavy passenger vehicle'), whose gross weight exceeds 7,500 Kg. Our present interpretation on how the licensing regime is to operate for drivers under the statutory scheme is unlikely to compromise the road safety concerns. This will also effectively address the livelihood issues for drivers operating Transport Vehicles (who clock maximum hours behind the wheels), in legally operating "Transport vehicles" (below 7,500 Kg), with their LMV driving license. Perforce Sri must drive responsibly and should have no occasion to be called either a maniac or an idiot (as mentioned in the first paragraph), while he is behind the wheels. Such harmonious interpretation will substantially address the vexed question of law before this Court.

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.

132. The reference is answered in the above terms. The Registry is directed to list the matters before the appropriate Bench after obtaining directions from Hon'ble the Chief Justice of India.

.....CJI
[DR DHANANJAYA Y CHANDRACHUD]

.....J
[HRISHIKESH ROY]

.....J
[PAMIDIGHANTAM SRI NARASIMHA]

.....J
[PANKAJ MITHAL]

.....J
[MANOJ MISRA]

NEW DELHI;
NOVEMBER 06, 2024