

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

MA No. 170/2014

National Insurance Co. Ltd.

.....Appellant(s)

Through: Mr. Dinesh Singh Chauhan, Advocate with
Ms. Damini Singh Chauhan, Advocate

Vs

Naresh Kumar & Ors

..... Respondent(s)

Through: None

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

ORDER(ORAL)
15.07.2025

1. Through the medium of the instant appeal filed under the provisions of Section 173 of the Motors Vehicles Act, 1988 (hereinafter referred to as '*the Act*' *for short*), the appellant-National Insurance Company has assailed the Award dated 06.02.2014 passed by the Motor Accidents Claims Tribunal (hereinafter referred to as '*MACT*' *for short*), Jammu in File No. 455/2009 titled "Naresh Kumar & Anr vs National Insurance Company Limited & Ors" on the main grounds that the driver/respondent No.5, namely Subash Chander of the offending vehicle stood permitted by the Licensing Authority to drive only "Heavy Goods Vehicle" as on the date of accident i.e 14.11.2007 and had no authority to drive the "Passengers Commercial Vehicle", without the necessary endorsement on the license to the effect of driving the "Passengers Service Vehicle"; that the learned MACT was not also justified in closing the evidence of the appellant-company without calling the witnesses for whom the diet expenses had been deposited and that the learned MACT has allowed the

interest on the Award amount at an excessive rate of 7.5% per annum especially when with the change in the economy, the banks have lowered the rate of interest on fixed deposit.

2. I have heard the learned counsel for the appellant who very vehemently contended that the learned MACT while directing the appellant-company to satisfy the Award has committed a grave illegality because the driver of the offending vehicle i.e respondent No.5 was driving the passenger vehicle at the time of a occurrence in violation of the terms and conditions of the policy of the insurance because as per the license issued by the concerned Licensing Authority, he was only competent to drive a “Heavy Goods Vehicle”.
3. The learned counsel in support of his contentions placed reliance on the judgment of this Court titled “***National Insurance Company Ltd vs Bashir Ahmed Chopan and others***”, 2012(1) JKJ [HC] 222, wherein as per the learned counsel, it has been held that the driver holding a driving license entitling him to drive “Heavy Goods Vehicle” is not competent to drive a passenger carrying vehicle unless there is a PSV endorsement.
4. Learned counsel also submitted that the learned MACT has again fallen into error by awarding the interest on the compensation amount @ 7.5% per annum which is highly excessive as being higher than the rates of interest awarded by the banks on fixed deposit. He further contented that the learned MACT during the proceedings of the claim petition did not call the witnesses of the appellant for which the diet expenses had also been deposited thereby condemning the appellant-company unheard at the proceeding.

5. Learned counsel for the appellant prayed for setting aside of the Award.
6. I have perused the memo of appeal and the copies of the document enclosed with the same as Annexure thereto especially the impugned Award dated 06.02.2014.
7. I have considered the submissions advanced at bar by learned counsel for the appellant.
8. Keeping in view the aforementioned perusal and consideration in the light of the law on the subject, this Court is of the considered opinion that the impugned Award does not admit of any interference as the same appears to have been passed in accordance with the law. The perusal of the impugned Award reveals that the learned MACT through the impugned Award has adjudicated the issues framed on the basis of the pleadings of both the sides in accordance with law. The Issue No.3, which came to be framed by the learned MACT on the pleading of the appellant appears to have been adjudicated in accordance with law and there appears to be no illegality in the adjudication of the said issue.
9. The question that falls for determination is whether a driver holding a license to drive a heavy goods vehicle is eligible to drive a passenger vehicle. In order to find an answer of this question, we need to notice the definitions of, “goods carriage”, “heavy goods vehicle”, “transport vehicle” and “public service vehicle” as given in Section 2 of the Motor Vehicles Act, 1988.
10. Section 2(14) of the Motor Vehicles Act, 1988 defines “goods carriage” as any motor vehicle constructed or adapted for use solely for the carriage of

goods, or any motor vehicle not so constructed or adapted while being used for the carriage of goods.

11. Section 2(16) of Motor Vehicles, 1988 defines “Heavy Goods Carriage” as 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.
12. Section 2(35) of the Act defines “Public Service Vehicle” as any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a maxicab, a motorcab, contract carriage, and stage carriage.
13. The transport vehicle has been defined under Section 2(47) of the Motor Vehicles Act, 1988 as a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle.
14. What is deduced from the analysis of the definitions of the various classes of vehicles given hereinbefore, is that every heavy goods vehicle is a goods carriage, whereas a transport vehicles includes within its definition a public service vehicle as well as a goods carriage. Thus a passenger carrying vehicle i.e a public service vehicle as also a heavy goods vehicle i.e a goods carriage, fall within the definition of a ‘transport vehicle’ as contained in Section 2(47) of the Motor Vehicles Act, 1988.
15. In the instant case, respondent No.5, the driver, was holding a driving license which authorized him to drive a heavy goods vehicle. As already noted, heavy goods vehicle falls in the category of transport vehicle and the public service vehicle also falls in the same category. The driver in the instant case was, therefore, authorized to drive a class of vehicle which falls under the category of transport vehicle. Therefore, it can be safely

stated that the driver was authorized to drive even a public service vehicle, which also falls in the same class i.e the class of ‘transport vehicle’.

16. Looking from another angle, as per the amended provisions of Section 10 of the Motor Vehicle Act 1988, a driving license is to be issued for following classes of vehicles:

- (a) Motorcycle without gear
- (b) Motor cycle with gear.
- (c) Invalid carriage
- (d) Light Motor Vehicle
- (e) Transport vehicle
- (f) Road-roller.
- (g) Motor vehicle of a specified description.

17. In clause (e) of Section 10(2) of the Motor Vehicles Act, expression “transport vehicle” has replaced all types of commercial vehicles, which includes goods vehicles as well as passenger carrying vehicles. This has been done vide the amendment that came into effect on 14.11.1994. Therefore, with effect from 14.11.1994 driving licenses in respect of commercial vehicles are issued under the head “transport vehicle” and no sub-classification of these types of licenses is envisaged under Section 10(2) of the Act.

18. The accident, which is subject matter of the instant case, has taken place in the year, 2007 i.e well after the coming into effect of aforesaid amendment, therefore, any person who was holding a driving license authorizes him to drive a particular type of commercial vehicle would automatically be eligible to drive any other type of commercial vehicle, meaning thereby that a driver holding a driving license to drive a heavy goods vehicle would be competent to drive a passenger carrying vehicle. On this ground also,

the driving license that was held by respondent No. 5, driver was valid and effective license authorizing him to drive the offending vehicle.

19. Learned counsel for the appellant has, while arguing in support of the grounds urged in the appeal, relied upon the judgment of this Court in ***National Insurance Company Ltd. Vs. Bashir Ahmed Chopan and others, 2012 (1) JKJ [HC] 222***, wherein this Court has held that a driver holding a driving license entitling him to drive a heavy goods vehicle is not competent to drive a passenger carrying vehicle unless there is a PSV endorsement. The ratio laid down in the said case in *per-incuriam* and not a binding precedent because it seems that the provisions referred to hereinbefore were not brought to the notice of the Court at the time of the passing of the aforesaid judgment. Even otherwise also, the said judgment has been passed without taking note of the binding precedent of the judgment delivered by a Division bench of this Court in ***National Insurance Co. Ltd. Vs. Mohd Sadiq Kuchay and Ors. 2008 (1) SLJ 23***, wherein it has been held that PSV endorsement in accordance with Jammu and Kashmir Motor Vehicle rules is not necessary and that if a driver is competent to drive a particular class of transport vehicle, he is competent to drive any other class of transport vehicle.
20. This Court has already taken above view in the judgments titled as “*New India Assurance Company Ltd vs Jagjeet Singh and others*” [MA No. 140/2009] and “*Oriental Insurance Company vs Smt. Nirmala Devi & Ors*” [MA No. 122/2010], decided by the Coordinate Benches of this Court respectively on 04.05.2023 and 30.04.2024. The rate of interest awarded by the learned MACT on the compensation amount does not appear to be

excessive. The other grounds of challenge also do not seem to be justified in the circumstances of the case.

21. For the foregoing discussion, the appeal seems to be devoid of any merit and is, accordingly, ***dismissed***.
22. It is submitted by the learned counsel for the appellant that the entire Award amount along with interest stands already deposited with the Registry of this Court as per the order dated 26.03.2014 passed on this appeal. The Award amount or any portion thereof is still deposited with the Registry, is ordered to be released in favour of the claim petitioner(s) as per the Award, under rules and against the proper receipt.
23. ***Disposed of***

Jammu
15.07.2025
Vijay

(Mohd. Yousuf Wani)
Judge

