

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

...
CONC no.1220/2015
RP no.54/2022

Reserved on: 18.05.2022

Pronounced on: 17.08.2022

National Insurance Company Limited

.....Petitioner(s)

Through: Mr Aatir Kawoosa, Advocate

Versus

Mushtaq Ahmad Kutary & others

.....Respondent(s)

Through: Mr M.A. Thakur, Advocate for
respondent no.3/review petitioner

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

JUDGEMENT

CONC no.1220/2015

1. Delay of 88 days in filing Petition seeking review of judgement/ order dated 10th March 2015 passed in CIMA no.77/2014 titled *National Insurance Company Limited v. Mushtaq Ahmad Kutay and others*, is sought to be condoned.
2. Instant application has been filed on 8th July 2015. The delay is not such as if it could be said or termed to be inordinate one. As rightly pointed out by learned counsel for respondent no.3/review petitioner that the Appeal (CIMA no.77/2014) was listed before a Bench of this Court on 10th March 2015 and was decided on the same day, although dismissed, yet right of recovery was given against owner on the ground of engaging a driver with licence not carrying "PSV" endorsement.

According to learned counsel, respondent no.3/review petitioner came to know about passing of judgement/order dated 10th March 2015 only when recovery petition was filed before the Tribunal and he was summoned to appear before it and, accordingly, he applied for certified copy of judgement dated 10th March 2015 and subsequently approached this Court.

3. In view of above, there is sufficient cause shown by applicant for consideration and, resultantly, the application is allowed and delay of 88 days in filing Review Petition is condoned.
4. Disposed of.

Review Petition No.54/2022

5. I have heard learned counsel for parties and considered the matter.
6. Review of judgement/order dated 10th March 2015 passed by a Bench of this Court in an Appeal, bearing CIMA no.77/2014 titled as *National Insurance Company Limited v. Mushtaq Ahmad Kutay and others*, is sought for in the instant petition.
7. As is gatherable from perusal of the file, a claim petition was filed by respondent no.1/claimant before the Tribunal on 27th February 2007, averring therein that on 1st January 2004, he was traveling in offending vehicle bearing Registration no.JK01B-3221, which was going from Khanabal towards Srinagar, in connection with election rally and on reaching Chechekoot, Awantipora National Highway, offending vehicle turned turtle, resultantly passengers traveling in the vehicle got serious injured and that petitioner also received multipole injuries on various parts of his body particularly on head and had been rendered disabled. Respondent no.1/claimant sought compensation in the

amount of Rs.40.00 Lakhs before the Motor Accident Claims Tribunal, Anantnag (for short “*Tribuna*”)

8. Insurance Company resisted the claim petition before the Tribunal.

Their stand was that driver of offending vehicle was not holding valid and effective driving licence and without PSV endorsement thereon.

9. The Tribunal, in view of pleadings of parties, framed following Issues for determination, which are:

- 1) Whether on 1st of January 2004, the petitioner while travelling in motor vehicle No.3221-JK01B driven by respondent NO.1, while reaching at the Checkekoot at NHW, was injured when the vehicle turned turtle due to the rash and negligent driving of respondent No.1? OPP
- 2) Whether the petitioner is entitled to compensation for the injuries suffered, to what extent and from whom? OPP
- 3) Whether the driver was not holding an effective D/L with PSV endorsement and the vehicle did not have valid R/P and R/C, hence the respondent-insurance company is not liable to indemnify the respondent No.2-owner? OPR3
- 4) Relief.

10.Claimants in support of their claim before the Tribunal produced and examined five witnesses. Insurance Company produced two witnesses in support of its stand. By virtue of Award dated 24th February 2014, the Tribunal found claimant entitled to compensation in the amount Rs.4,13,000/- along with 6% interest per annum from the date of institution of claim till realization.

11.Insurance Company filed Appeal, being CIMA no.77/2014, as it felt aggrieved of the Tribunal Award dated 24th February 2014. A Bench of this Court vide judgement/order dated 10th March 2015 allowed the Appeal and gave right of recovery to Insurance Company. Review thereof is sought here.

12.It is submission of learned counsel for review petitioner/respondent no.3 that this Court while rendering the judgement, review of which is

sought, has not taken into consideration the Written Submission filed by respondent no.3, in which it was stated that law on the subject was settled and in this regard two judgements, rendered in the cases of *National Insurance Co. Ltd v. Smt. Tsering Dolma and others, 2005 (I) SLJ 321*, and *M/s Bharat Transport Co. v. Kartar Chand and others, 2008 (II) SLJ 626*, were also referred to and that those judgements have binding precedence and, therefore, could not have been unnoticed by this Court. Learned counsel has also stated that this Court while passing the judgement under review has not looked into the fact that the Tribunal had lucidly dealt with all aspects of the matter, including one the driving licence inasmuch as the Tribunal had referred to law laid down in *National Insurance Co. Ltd v. Swaran Singh and others (2004) 3 SCC 297*. He also asserts that since the judgement/order does not effectively deal with and determine the important points as were popping up in view of law laid down in the aforesaid judgements relied upon by review petitioner and referred to by the Tribunal, the omission appears on the face of the judgement/order, which would well be reviewed.

13. On the other side, counsel for appellant-Insurance Company has stated that this Court has rightly given the right to Insurance Company to recover the award amount from owner of offending vehicle. He also avers that driver of offending vehicle was not having effective driving licence to drive mini passenger bus at the time of accident as there was no PSV endorsement on his driving licence.

14.It is pertinent to mention here that while considering abovementioned contentions, the scope and ambit of Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure is to be taken into consideration.

15.The grounds on which review can be sought are enumerated in Order XLVII Rule 1 CPC, which reads as under:

“1. Application for review of judgment. - (1) Any person considering himself aggrieved-

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
- (b) by a decree or order from which no appeal is allowed, or
- (c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment of the court which passed the decree or made the order.”

16.An application for review would lie, *among others*, when an order/ judgement suffers from an error apparent on the face of record and permitting the same to continue would lead to failure of justice. Limitations on exercise of power of review are well settled. The first and foremost requirement of entertaining a review petition is that the judgement/order, review of which is sought, suffers from any error apparent on the face of it and permitting the order to stand will lead to failure of justice. In absence of any such error, finality attached to the judgment/ order cannot be disturbed.

17.The power of review can also be exercised by the court in the event discovery of new and important matter or evidence takes place that despite exercise of due diligence was not within the knowledge of applicant or could not be produced by him at the time when the order

was made. An application for review would also lie if the order has been passed on account of some mistake.

18. What is erroneous on the face of the record cannot be defined precisely or exhaustively there being an element of indefiniteness inherent in its very nature and it is to be determined judicially on the facts of each case. An error which does not require any extraneous matter to show its incorrectness has been treated as being apparent. A case for review is made out as soon as there is an error apparent on the face of the record. The question as to how the error occurred is not relevant. Each case is to be judged by itself and where the error of law is such that it is clearly apparent on a perusal of the record, there is ground for granting a review. Where a specific provision of law is not pointed out to the court at the time of passing of the order such an order suffers from an error apparent in the face of record so as to justify a review. It is well settled that an error apparent on the face of the record should appear either in the order itself or any other document which is incorporated in that order.

19. Taking into account the submissions made by learned counsel for parties and well settled law qua review, it would be apropos to first of all discuss what law has been laid down by the Supreme Court and by this Court concerning the subject-matter of instant review petition.

20. Paragraphs 16 and 17 of *Tsering Dolma* (supra), relied upon by learned counsel for review petitioner, are important and pertinent to the instant case and, thus, useful to be reproduced hereunder:

“16. Now coming to the questions, whether driver was having a valid driving license at the time of accident?

I am of the considered view that Swaraj Mazda is a vehicle which falls within the definition of Light Motors. It is profitable to

reproduce the definition of Light Motor Vehicles herein, which reads as under :-

“Light Motor vehicle, means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which, does not exceed (7500) kilograms;”

While going through this provision of law, it is crystal clear that which vehicles are light motor vehicles. The question whether, Swaraj Mazda is a vehicle falling under the definition of Light Motor Vehicles or Heavy Motor Vehicle, this point stands set at rest by the Apex Court in a judgment reported in AIR 1995 SC 3182. It is profitable to reproduce para-10, 11 and 14 of the said judgment herein, which read as under:-

“10. 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 non-transport vehicle as well.

11. To reiterate, since a vehicle cannot be used as 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 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 goods carrier, it cannot be so held on account of the statutory prohibition contained in Section 66 of the Act.

14. Now the vehicle in the present case weighed 5,920 kilograms and the driver had the driving licence to drive a light motor vehicle. It is not that, therefore, that insurance policy covered a transport vehicle which meant a goods carriage. The whole case of the insurer has been built on a wrong premise. It is itself the case of the insurer that in the case of a light motor vehicle which is a non-transport vehicle, there was no statutory requirement to have specific authorization on the licence of the driver under Form 6 under the Rules. It had, therefore, to be held that Jadhav was holding effective valid licence on the date of accident to drive light motor vehicle bearing Registration No. KA-28-567.”

17. Thus, while going through this provision of law, it is hereby held that Swaraj Mazda is a Light Motor Vehicle.

While going through the provisions of Motor Vehicles Act, it is nowhere prescribed that the licence for driving light motor vehicle should bear the endorsement that driver is competent to drive PSV (Passenger Service Vehicle). . . .”

The Court, as is coming to fore from the afore-reproduced relevant portion of judgement in *Tsering Dolma* (supra), has held that Motor Vehicles Act does not prescribe bearing the endorsement of PSV

(Passenger Service Vehicle) on a licence for driving light motor vehicle.

21.Paragraphs 08 and 09 of the case of *Kartar Chand* (supra), would also be advantageous to be reproduced infra:

“8. The driver was competent to drive passenger vehicle as held by the Supreme Court and even the endorsement of PSV was not required as held by this court in case titled *National Insurance Co. Ltd. v. Irfan Sidiq Bhat, 2004 (II) SLJ 623*. It is profitable to reproduce paras 13 and 17 of the judgment herein:

“(13) A combined reading of the above provisions leaves no room for doubt that by virtue of licence, about which there is no dispute, both Showkat Ahmad and Zahoor Ahmad were competent in terms of section 3 of the Motor Vehicles Act to drive a public service vehicle without any PSV endorsement and express authorisation in terms of Rule 4(1)(a) of the State Rules. In other words, the requirement of the State Rules stood satisfied...

(17) In the case of Mohammad Aslam Khan, C.I.M.A No. 87 of 2002, Peer-zada Noor-ud-Din appearing as witness on behalf of Regional Transport Officer did say on recall for further examination that PSV endorsement on the licence of Zahoor Ahmad was fake. In our opinion, the fact that the PSV endorsement on the licence was fake is not at all material, for, even if the claim is considered on the premise that there was no PSV endorsement on the licence, for the reasons stated above, it would not materially affect the claim. By virtue of ‘C to E’ licence, Showkat Ahmad was competent to drive a passenger vehicle. In fact, there is no separate definition of passenger vehicle or passenger service vehicle in the Motor Vehicles Act. They come within the ambit of public service vehicle under section 2(35). A holder of driving licence with respect to “light motor vehicle” is thus competent to drive any motor vehicle used or adapted to be used for carriage of passengers, i.e, a public service vehicle.”

9. In the given circumstances of the case, I am of the considered view that insurer has failed to prove that the owner has committed any wilful breach. Further the Tribunal has also fallen in error while holding that driver was not holding effective driving licence and was not competent to drive LMV, LGV, LTV (sic LMV, HGV, HTV).”

From the above, it is derivable that a holder of driving licence with respect to light motor vehicle is competent to drive any light motor vehicle used or adapted to be used for carriage of passengers, i.e., a public service vehicle.

22.It can also be seen from perusal of the Award of the Tribunal that reference has been made to a judgement rendered in the case of *National Insurance Company Ltd v. Swaran Singh and others (2004) 3*

SCC 297, in which it has been held by the Supreme Court insurance of vehicles against third party risks, as provided under Chapter XI of the Motor Vehicles Act, 1988, is a social welfare legislation to extend relief by compensation to victims of accidents caused by use of motor vehicles and that provisions of compulsory insurance coverage of all vehicles are with this paramount object and the provisions of the Act have to be so interpreted as to effectuate the said object. It has also been held by the Supreme Court that the breach of policy conditions, e.g., disqualification of driver or invalid driving licence of driver, have to be proved to have been committed by insured for avoiding liability by the insurer and that mere absence, fake or invalid driving licence or disqualification of driver to drive at the relevant time, are not in themselves defences available to the insurer against either insured or third parties, and to avoid liability towards insured, the insurer has to prove that insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the policy regarding use of vehicles by duly licenced driver or one who was not disqualified to drive at the relevant time. It has also been made clear by the Supreme Court that with a view to avoid their liability, the insurance companies must not only establish the available defence(s) raised in the proceedings but must also establish breach on the part of owner of the vehicle and that the burden of proof wherefore would be on them. Not only this, the Supreme Court has said that even where the insurer is able to prove breach on the part of insured as regards policy condition concerning holding of a valid licence by driver or his qualification to drive during relevant period, the insurer would not be allowed to avoid

its liability towards insured unless the said breach or breaches on the condition of driving licence is/are so fundamental as are found to have contributed to the cause of accident. After saying and holding so, the Supreme Court said that where on adjudication of the claim, the Tribunal arrived at a conclusion that insurer had satisfactorily proved its defence, it can direct that the insurer was liable to be reimbursed by insured for compensation and other amounts which it had been compelled to pay to third party under the award of the tribunal and that such determination of claim by tribunal would be enforceable and the money found due to insurer from the insured will be recoverable.

23. Learned counsel for review petitioner has, during the course of arguments, also made reference to and relied upon a judgement rendered in the case of *Mukund Dewangan v. Oriental Insurance Company Limited* reported in *AIR 2017 SC 3668*, in which the controversy qua driving of transport vehicle by a driver holding licence for driving light motor vehicle without endorsement of PSV, has been set at rest. It has been held by the Supreme Court that a person holding driving licence to drive light motor vehicle can ply the transport vehicle as well of such class and no separate endorsement to that effect is required. Pertinent excerpt thereof would be advantageous to be reproduced here:

“42. In *Nagashetty* (supra), the vehicle involved was a tractor which was used for carrying goods. The goods were carried in a trailer attached to it. It was held that if a driver was holding an effective licence to drive a tractor, he could validly drive the tractor attached to a trailer. The contention that it was a transport vehicle, as the tractor was attached to a trailer and as such the driver was not holding a valid licence, was rejected. This Court has laid down thus:

“9. Relying on these definitions, Mr. S.C. Sharda submitted that admittedly the trailer was filled with stones. He submitted that once a trailer was attached to the tractor the tractor became a transport vehicle as it was used for carriage of goods. He submitted that

Section 10(2) of the Motor Vehicles Act provides for grant of licences to drive specific types of vehicles. He submitted that the driver only had a licence to drive a tractor. He submitted that the driver did not have a licence to drive a transport vehicle. He submitted that therefore it could not be said that the driver had an effective and valid driving licence to drive a goods carriage or a transport vehicle. He submitted that thus the driver did not have a valid driving licence to drive the type of vehicle he was driving. He submitted that as the driver did not have a valid driving licence to drive a transport vehicle, the Insurance Co. could not be made liable. He submitted that the High Court was right in so holding.

10. We are unable to accept the submissions of Mr. S.C. Sharda. It is an admitted fact that the driver had a valid and effective licence to drive a tractor. Undoubtedly Under Section 10, a licence is granted to drive specific categories of motor vehicles. The question is whether merely because a trailer was attached to the tractor and the tractor was used for carrying goods, the licence to drive a tractor becomes ineffective. If the argument of Mr. S.C. Sharda is to be accepted, then every time an owner of a private car, who has a licence to drive a light motor vehicle, attaches a roof carrier to his car or a trailer to his car and carries goods thereon, the light motor vehicle would become a transport vehicle and the owner would be deemed to have no licence to drive that vehicle. It would lead to absurd results. Merely because a trailer is added either to a tractor or to a motor vehicle by itself does not make that tractor or motor vehicle a transport vehicle. The tractor or motor vehicle remains a tractor or motor vehicle. If a person has a valid driving licence to drive a tractor or a motor vehicle, he continues to have a valid licence to drive that tractor or motor vehicle even if a trailer is attached to it and some goods are carried in it. In other words, a person having a valid driving licence to drive a particular category of vehicle does not become disabled to drive that vehicle merely because a trailer is added to that vehicle.

11. In this case, we find that the Insurance Company when issuing the insurance policy, had also so understood. The insurance policy has been issued for a tractor. In this insurance policy, an additional premium of Rs. 12 has been taken for a trailer. Therefore the insurance policy covers not just the tractor but also a trailer attached to the tractor. The insurance policy provides as follows for the "persons or classes of persons entitled to drive":

'Persons or classes of persons entitled to drive - Any person including insured provided that the person driving holds an effective driving licence at the time of the accident and is not disqualified from holding or obtaining such a licence: Provided also that the person holding an effective learner's licence may also drive the vehicle when not used for the transport of goods at the time of the accident and that such a person satisfies the requirements of Rule 3 of the Central Motor Vehicles Rules, 1989, limitations as to use.'

12. The policy is for a tractor. The "effective driving licence" is thus for a tractor. The restriction on a learner driving the tractor when used for transporting goods shows that the policy itself contemplates that the tractor could be used for carriage of goods. The tractor by itself could not carry goods. The goods would be carried in a trailer attached to it. That is why the extra premium for a trailer. The restriction placed on a person holding a learner's licence i.e. not to drive when goods are being carried is not there for a permanent licence-holder. Thus a permanent licence-holder having an effective/valid licence to drive a tractor can drive even when the tractor is used for carrying goods. When the policy itself so permits, the High Court was wrong in coming to the conclusion

that a person having a valid driving licence to drive a tractor would become disqualified to drive the tractor if a trailer was attached to it.”

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45. Transport vehicle has been defined in section 2(47) of the Act, to mean a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle. Public service vehicle has been defined in section 2(35) to mean any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward and includes a maxicab, a motor cab, contract carriage, and stage carriage. Goods carriage which is also a transport vehicle is defined in section 2(14) to mean a 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.

It was rightly submitted that a person holding licence to drive light motor vehicle registered for private use, who is driving a similar vehicle which is registered or insured, for the purpose of carrying passengers for hire or reward, would not require an endorsement as to drive a transport vehicle, as the same is not contemplated by the provisions of the Act. It was also rightly contended that there are several vehicles which can be used for private use as well as for carrying passengers for hire or reward. When a driver is authorised to drive a vehicle, he can drive it irrespective of the fact whether it is used for a private purpose or for purpose of hire or reward or for carrying the goods in the said vehicle. It is what is intended by the provision of the Act, and the Amendment Act 54/1994.

46. Section 10 of the Act requires a driver to hold a licence with respect to the class of vehicles and not with respect to the type of vehicles. In one class of vehicles, there may be different kinds of vehicles. If they fall in the same class of vehicles, no separate endorsement is required to drive such vehicles. As light motor vehicle includes transport vehicle also, a holder of light motor vehicle licence can drive all the vehicles of the class including transport vehicles. It was pre-amended position as well the post-amended position of Form 4 as amended on 28.3.2001. Any other interpretation would be repugnant to the definition of "light motor vehicle" in section 2(21) and the provisions of section 10(2)(d), Rule 8 of the Rules of 1989, other provisions and also the forms which are in tune with the provisions.

Even otherwise the forms never intended to exclude transport vehicles from the category of 'light motor vehicles' and for light motor vehicle, the validity period of such licence hold good and apply for the transport vehicle of such class also and the expression in Section 59 10(2)(e) of the Act 'Transport Vehicle' would include medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle, heavy passenger motor vehicle which earlier found place in section 10(2)(e) to (h) and our conclusion is fortified by the syllabus and rules which we have discussed. Thus we answer the questions which are referred to us thus:

(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 60 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.

The Supreme Court held that 'light motor vehicle' would include a transport vehicle and that transport vehicles are not excluded from the definition of light motor vehicle in view of Amendment Act NO.54 of 1994. It has also been held by the Supreme Court that 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 that if a driver holds licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect.

24. So, from above discussion it is manifest that a person holding driving licence to drive light motor vehicle can also drive transport vehicle of such class that too without any endorsement to that effect in his driving licence.

If that being the position, then review petitioner is right in seeking review of the judgement dated 10th March 2015 as perusal thereof reveals that it suffers from error apparent on the face of it and permitting the judgement/order to stand will lead to failure of justice.

25. For all what has been discussed above, the instant review petition is **allowed** and judgement/order dated 10th March 2015 passed in CIMA no.77/2014 titled *National Insurance Company Limited v. Mushtaq Ahmad Kutay and others*, is **reviewed and recalled**. And as a corollary thereof, the Appeal, being CIMA no.77/2014, is **dismissed** and the right thereby given to Insurance Company to recover the compensation from the owner shall also stand deleted from the judgement dated 10th March 2015, and the Award dated 24th February 2014, rendered by Motor Accident Claims Tribunal, Anantnag, in claim petition, bearing File no.71/Claim titled *Musthaq Ahmad Kuttay v. Farooq Ahmad Mantoo and others*, is **upheld**.

26. Review petition disposed of.

27. Copy be sent down with the record.

(Vinod Chatterji Koul)
Judge

Srinagar
17.08.2022
Ajaz Ahmad, PS

Whether approved for reporting? Yes