

**OFFICE OF THE TRANSPORT COMMISSIONER-CUM-CHAIRMAN,  
STATE TRANSPORT AUTHORITY, ODISHA, CUTTACK.**

No. 8822 /TC

dated 13-10-2020

**ORDER**

As per direction of Hon'ble Supreme Court in Civil Appeal No.5826 of 2011 (Mukund Devagan Vrs. Oriental Insurance Company Ltd), MoRTH, Government of India vide letter No.RT-11021/44/2017-MVL dated 16.04.2018 (copy enclosed) has issued advisory regarding requirement of driving license under M.V. Act, 1988 to drive medium / heavy goods and passenger vehicles.

The gist of advisory issued by MoRTH is quoted below :-

*" In view of the legal position as settled by the Hon'ble Supreme Court in the above judgment, the requirement under Motor Vehicles Act, 1988 to obtain the transport license would arise in case of medium/ heavy goods and passenger vehicles only. No other vehicle will require any separate endorsement, even if they are used for commercial purposes. The exemption from the requirement to obtain the endorsement for commercial vehicles would apply to following vehicles:*

- (i) Motor cycle without gear
- (ii) Motor cycle with gear
- (iii) Light motor vehicle (goods / passenger)
- (iv) e-rickshaw / e-cart "

All the RTOs are instructed to follow the instruction of MoRTH scrupulously. No officer of Odisha Motor Vehicles Department will draw e-challan against any person having driving license to drive Motor cycle without gear, Motor cycle with gear, Light Motor Vehicle and e-rickshaw / e-cart found driving that class of commercial goods and passenger vehicle.

  
Transport Commissioner  
Odisha

Memo No. 8823

dated 13-10-2020

Copy forwarded to the Principal Secretary to Government, Commerce and Transport Department, Odisha, Bhubaneswar for information.

  
Transport Commissioner  
Odisha

Memo No. 8824

dated 13-10-2020

Copy forwarded to the D.G. and I.G. of Police, Odisha, Cuttack for information.

*13-10-2020*  
Transport Commissioner  
Odisha

Memo No. 8825

dated 13-10-2020

Copy forwarded to all Officers at Head Quarters / Technical Director, NIC, STA /  
All D.C.Ts./all RTOs for information and necessary action.

Copy to Computer Cell to host in the website, face book and twitter.

*13-10-2020*  
Transport Commissioner  
Odisha

No. RT-11021/44/2017-MVL  
Government of India  
Ministry of Road Transport and Highways  
Transport Bhawan, 1 Parliament Street, New Delhi-110001

Dated, the 16<sup>th</sup> April, 2018

To

1. The Principal Secretaries (Transport) / Secretaries (Transport)/ Transport Commissioners of all States/ Union Territory Administrations
2. DGPs of All States/ Union Territory Administrations.

**Subject:** Compliance of the judgment dated 03-07-2017 of the Hon'ble Supreme Court in Civil Appeal No. 5826 of 2011 - Mukund Devagan v/s Oriental Insurance Company and Others in the matter of issue of driving licence for light motor vehicles.

Madam/ Sir,

The question whether a holder of a licence to drive a Light Motor Vehicle is required to get the licence endorsed for driving a transport vehicle of the light motor vehicle class was recently considered by the Hon'ble Supreme Court in Civil Appeal No. 5826 of 2011- Mukund Dewangan V/s Oriental Insurance Company Limited. The following questions were referred for decision by a two-judge bench of the Hon'ble Supreme Court to the larger Bench of the Hon'ble Supreme Court in Civil Appeal No. 5826 of 2011- Mukund Dewangan V/s Oriental Insurance Company Limited:

- (a) 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?
- (b) 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 road roller, "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 kgs. or a motor car or tractor or road roller, the "unladen weight" of which does not exceed 7500 kgs.?
- (c) What is the effect of the amendment made by virtue of Act No. 54 of 1994 w.e.from 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

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Government of India  
Ministry of Road Transport and Highways  
Transport Bhawan, 1 Parliament Street, New Delhi-110001

transport vehicle of light motor vehicle class from the purview of Sections 10(2)(d) and 2(41) of the Act?

- (d) 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?"

2. In their judgment dated 03.07.2017, a three-judge bench of the Hon'ble Supreme Court answered the above questions as under:

- (a) '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.
- (b) 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.
- (c) 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.
- (d) 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

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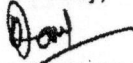
drive transport vehicle, and if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect.

3. In view of the legal position as settled by the Hon'ble Supreme Court in the above judgment, the requirement under the Motor Vehicles Act, 1988 to obtain the transport licence would arise in case of medium/ heavy goods and passenger vehicles only. No other vehicle will require any separate endorsement, even if they are used for commercial purposes. The exemption from the requirement to obtain the endorsement for commercial vehicles would apply to following vehicles:

- (i) Motor cycle without gear
- (ii) Motor cycle with gear
- (iii) Light motor vehicle (goods / passenger)
- (iv) e-rickshaw/ e-cart

4. It is requested that the appropriate instructions may please be issued to the licencing authorities and the enforcement authorities for compliance of the directions of the Hon'ble Supreme Court as above.

Yours faithfully,

  
(Abhay Damle)  
Joint Secretary (T)  
☎: 011-2371 9209  
e-mail: js-tpt@gov.in

Copy to:

DDG, NIC, CGO Complex with a request to make necessary amendments in *Sarathi* software so as to incorporate the effect of aforesaid judgment of the Hon'ble Supreme Court.