



FACULTY OF JURIDICAL SCIENCES

COURSE: LL.B. I st Semester

SUBJECT: LAW OF TORTS

SUBJECT CODE: LLB102

Name of Faculty: Ms. NEHA KHANNA

LECTURE 38

TOPIC: MOTOR VEHICLE ACT, 1988- INSURANCE OF MOTOR VEHICLE AGAINST THIRD PARTY RISK, CLAIM TRIBUNALS, OFFENCES, PENALTIES AND PROCEDURE.

CHAPTER II - LICENSING OF DRIVERS OF MOTOR VEHICLES

3. Necessity for driving license. —

(1) No person shall drive a motor vehicle in any public place unless he holds an effective driving license issued to him authorizing him to drive the vehicle; and no person shall so drive a transport vehicle [other than 3 [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 license 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.

4. Age limit in connection with driving of motor vehicles. —

(1) No person under the age of eighteen years shall drive a motor vehicle in any public place: Provided that 1 [a motor cycle with engine capacity not exceeding 50cc] out gear 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 learner's license or driving license 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.

15. Renewal of driving licenses. —

(1) Any licensing authority may, on application made to it, renew a driving licence issued under the provisions of this Act with effect from the date of its expiry:

Provided that in any case where the application for the renewal of a license is made more than thirty days after the date of its expiry, the driving license shall be renewed with effect from the date of its renewal: Provided further that where the application is for the renewal of a license 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 license.

(2) An application for the renewal of a driving license shall be made in such form and accompanied by such documents as may be prescribed by the Central Government.

(3) Where an application for the renewal of a driving license is made previous to, or not more than thirty days after the date of its expiry, the fee payable for such renewal shall be such as may be prescribed by the Central Government in this behalf.

(4) Where an application for the renewal of a driving license is made more than thirty days after the date of its expiry, the fee payable for such renewal shall be such amount as may be prescribed by the Central Government: Provided that the fee referred to in sub-section (3) may be accepted by the licensing authority in respect of an application for the renewal of a driving license made under this sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from applying within the time specified in sub-section (3): Provided further that if the application is made more than five years after the driving license has ceased to be effective, the licensing authority

may refuse to renew the driving license, unless the applicant undergoes and passes to its satisfaction the test of competence to drive referred to in sub-section (3) of section 9.

(5) Where the application for renewal has been rejected, the fee paid shall be refunded to such extent and in such manner as may be prescribed by the Central Government.

(6) Where the authority renewing the driving license is not the authority which issued the driving license it shall intimate the fact of renewal to the authority which issued the driving license.

21. Suspension of driving license in certain cases. —

(1) Where, in relation to a person who had been previously convicted of an offence punishable under section 184, a case is registered by a police officer on the allegation that such person has, by such dangerous driving as is referred to in the said section 184, of any class or description of motor vehicle caused the death of, or grievous hurt to, one or 20 more persons, the driving license held by such person shall in relation to such class or description of motor vehicle become suspended—

(a) for a period of six months from the date on which the case is registered, or

(b) if such person is discharged or acquitted before the expiry of the period aforesaid, until such discharge or acquittal, as the case may be.

(2) Where by virtue of the provisions of sub-section (1), the driving license held by a person becomes suspended, the police officer, by whom the case referred to in sub-section (1) is registered, shall bring such suspension to the notice of the Court competent to take cognizance of such offence, and thereupon, such Court shall take possession of the driving license, endorse the suspension thereon and intimate the fact of such endorsement to the licensing authority by which the license was granted or last renewed.

(3) Where the person referred to in sub-section (1) is acquitted or discharged, the Court shall cancel the endorsement on such driving license with regard to the suspension thereof.

(4) If a driving license in relation to a particular class or description of motor vehicles is suspended under sub-section (1), the person holding such license shall be debarred from holding or obtaining any license to drive such particular class or description of motor vehicles so long as the suspension of the driving license remains in force.

27. Power of Central Government to make rules. —

The Central Government may make rules— 2 [(a) specifications relating to e-cart and e-rickshaw under sub-section (2) of section 2A;] 3 [(aa)] regarding conditions referred to in sub-section (2) of section 3;

(b) providing for the form in which the application for learner's licence may be made, the information it shall contain and the documents to be submitted with the application referred to in sub-section (2) of section 8;

(c) providing for the form of medical certificate referred to in sub-section (3) of section 8;

(d) providing for the particulars for the test referred to in sub-section (5) of section 8;

(e) providing for the form in which the application for driving licence may be made, the information it shall contain and the documents to be submitted with the application referred to in sub-section (2) of section 9;

(f) providing for the particulars regarding test of competence to drive, referred to in sub-section (3) of section 9; 2 [(ff) the manner and the conditions subject to which the driving license may be issued under sub-section (10) of section 9;]

(g) specifying the minimum educational qualifications of persons to whom licences to drive transport vehicles may be issued under this Act and the time within which such qualifications are to be acquired by such persons;

(h) providing for the form and contents of the licences referred to in sub-section (1) of section 10;

(i) providing for the form and contents of the application referred to in sub-section (1) of section 11 and documents to be submitted with the application and the fee to be charged;

(j) providing for the conditions subject to which section 9 shall apply to an application made under section 11;

(k) providing for the form and contents of the application referred to in sub-section (1) of section 15 and the documents to accompany such application under sub-section (2) of section 15;

(l) providing for the authority to grant licenses under sub-section (1) of section 18;

(m) specifying the fees payable under sub-section (2) of section 8, sub-section (2) of section 9 and sub-sections (3) and (4) of section 15 for the grant of learner's licenses, and for the grant and renewal of driving licenses and licenses for the purpose of regulating the schools or establishment for imparting instructions in driving motor vehicles;

(n) specifying the acts for the purposes of clause (f) of sub-section (1) of section 19;

(o) specifying the offences under this Act for the purposes of sub-section (2) of section 24;

(p) to provide for all or any of the matters referred to in sub-section (1) of section 26;

(q) any other matter which is, or has to be, prescribed by the Central Government.

38. Power of State Government to make rules. —

(1) A State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the appointment, jurisdiction, control and functions of licensing authorities and other prescribed authorities under this Chapter;

(b) the conditions subject to which drivers of stage carriages performing the functions of a conductor and persons temporarily employed to act as conductors may be exempted from the provisions of sub-section (1) of section 29;

(c) the minimum educational qualifications of conductors; their duties and functions and the conduct of persons to whom conductor's licenses are issued;

(d) the form of application for conductor's licenses or for renewal of such licenses and the particulars it may contain;

(e) the form in which conductor's licenses may be issued or renewed and the particulars it may contain;

(f) the issue of duplicate licenses to replace licenses lost, destroyed or mutilated, the replacement of photographs which have become obsolete and the fees to be charged therefor;

(g) the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such fees:

Provided that no fee so fixed shall exceed twenty-five rupees;

(h) the badges and uniform to be worn by conductors of stage carriages and the fees to be paid in respect of such badges;

(i) the grant of the certificates referred to in sub-section (3) of section 30 by registered medical practitioners and the form of such certificates;

(j) the conditions subject to which, and the extent to which, a conductor's license issued in another State shall be effective in the State;

(k) the communication of particulars of conductor's licenses from one authority to other authorities; and

(l) any other matter which is to be, or may be, prescribed.

Exercise:

1. Which of the following is not covered under insurance?

- a) Third Party Risk
- b) Motor Vehicle
- c) Pillion Rider
- d) Driver

2. Which section deals with driving license?

- a) Section 2
- b) Section 3
- c) Section 4
- d) Section 5

3. What did Ram Narain do in New India Assurance Co. Ltd. V. Prabhu Lal case?

- a) Driven without license
- b) Drive transport vehicle with license of light vehicle
- c) Driven under the influence of alcohol
- d) Driven while talking on a phone

4. Which type of license do Motor Vehicles Act, 1888 issue?

- a) Driving license
- b) Learner's license
- c) Both (a) and (b)
- d) None of the above

5. Which post did applicant applied for in Alka Ojha V. Rajasthan Public Service Commission Case?

- a) MV Sule Inspector
- b) Jailor
- c) Inspector
- d) Detective