**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Misc. Appeal No.117 of 2005**

National Insurance Co. Ltd. Through Assistant Manager National Insurance Co. Ltd. B-1 Taha Complex 1st Floor Ring Road Priyadarshini Nagar Bilaspur Tahsil and District Bilaspur Chhattisgarh

**---- Appellant**

**Versus**

1. Chaman Lal Uike S/o Budh Ram Uike Caste Gond aged about 36 years R/o Saliha Para Bhanupratappur P.S. & Tahsil Bhanupratappur District North Bastar Kanker Chhattisgarh

2. Manish Yogi S/o Shri Durga Prasad Yogi Caste Yogi aged about 25 years R/o Bazar Para Bhanupratappur P.S. & Tahsil Bhanupratappur District North Bastar Kanker Chhattisgarh

3. Smt. Kumari Bai Wd/o Late Ragbir @ Raghubir Mandavi Caste Gond aged about 20 years

4. Smt. Chheeta Bai W/o Bahadur Singh Mandavi Caste Gond aged about 40 years

Respondent No.3 and 4 both R/o village Bhiragaon (Mala para) Bhanupratappur P.S. & Tahsil Bhanupratappur District North Bastar Kanker Chhattisgarh

**---- Respondents**

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| For Appellant | : | None. |
| For Respondent No.2 | : | Shri Parag Kotecha, Advocate. |

**Hon'ble Shri Deepak Gupta, Chief Justice**

**Order on Board**

**05/08/2016**

1. None appears on behalf of the Appellant.

2. The short question raised by the Insurance Company in this appeal is that it is not liable to pay compensation because the driver had a license only to driver the Light Motor Vehicle and there was no endorsement of the license permitted him to drive a commercial vehicle like Taxi.

3. Shri Parag Kotecha, learned counsel has drawn attention of this Court to the judgmetn of Apex Court in **(2015) 2 SCC 186 (Kulwant Singh & Others v. Oriental Insurance Company Limited),** wherein the Apex Court has held as follows:

> "6. Learned counsel for the appellants submitted that the High Court erred in holding that licence for driving light motor vehicle entitled the driver to drive 'light goods vehicle'. Reliance has been placed on the Judgments of this Court in S. Iyyapan vs. United India Insurance Company Limited and Another, (2013) 7 SCC 62 and National Insurance Company Ltd. vs. Annappa Irappa Nesaria Alias Nesearagi and Others, (2008) 3 SCC 464. Thus, there was no breach of policy entitling the Insurance Company to recovery rights against the owner. Learned counsel for the Insurance Company supported the view taken by the High Court.
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> 7. We have considered the rival submissions and perused the judgments relied upon.
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> 8. We find the judgments relied upon cover the issue in favour of the appellants. In Annappa Irappa Nesaria (supra), this Court referred to the provisions of Section 2(21) and (23) of the Motor Vehicles Act, 1988, which are definitions of 'light motor vehicle' and 'medium goods vehicle' respectively and the rules prescribing the forms for the licence, i.e. Rule 14 and Form No.4. It was concluded : (SCC p. 468, para 20)
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>> "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 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."
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> 9. In S. Iyyapan (supra), the question was whether the driver who had a licence to drive 'light motor vehicle' could drive 'light motor vehicle' used as a commercial vehicle, without obtaining endorsement to drive a commercial vehicle. It was held that in such a case, the Insurance Company could not disown itsliability. It was observed : (SCC p. 77, para 18)
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>> "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."

4. In view of the law laid down by the Apex Court in **Kulwant Singh** (supra), there is no merit in the appeal filed by the Insurance Company. It is dismissed accordingly.

**Sd/-**
**(Deepak Gupta)**
**Chief Justice**

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