

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No.9 of 2016**

Branch Manager Through The Chola Mandalam M S General Insurance
Company Ltd. 2nd Floor Simran Bhawan, In Front Of Life Insurance Office
Pandri (Raipur).....(Insurer)

---- Petitioner

Versus

1. Kanwal Singh Koroti S/o Late Durgu Ram, Aged About 64 Years R/o Village Bade Kilopal, P. S. Kodenar, District Bastar (Chhattisgarh)
2. Smt. Jayanti Bai W/o Kanwal Singh, Aged About 55 Years R/o Village Bade Kilopal, P. S. Kodenar, District Bastar (Chhattisgarh).....(Claimant)
3. Ravi Kumar Baghel S/o Late Gopinath Baghel, Aged About 26 Years R/o Near Sulabh Complex, Kumharpara, Jagadapur, District Bastar (Chhattisgarh)..... (Driver)
4. Arjun Kashyap S/o Late Ramsai Kashyap, Aged About 60 Years R/o Orna Camp, Adawal, P. S. Bodhghat, District Bastar (Chhattisgarh).....(Owner)

---- Respondents

For Petitioners : Shri G. S. Patel, Advocate
For Respondent No.1 & 2 : Shri P. K. Tulsyan, Advocate
None for respondent No.3, though served.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****10/05/2016**

Heard.

2. The short issue, which arises for consideration in this appeal, is as to whether in the event, the driver was not possessed of licence, the insurance company would be liable for payment of compensation or not.
3. This issue has been earlier considered by this Court relying upon the judgment of Supreme Court in the case of ***S. Iyyapan vs. United India Insurance Company Limited and another***¹ and held that in such a event also, as long as the policy is in

¹ (2013) 7 SCC 62

force and effective, the insurance company is liable to pay compensation though the insurance company entitled to recover the same from the owner.

4. In view of above legal position, this appeal is partly allowed. Though the insurance company is liable to pay compensation as has been awarded by the Tribunal under the various heads, it would be open for the insurance company to recover the amount paid by it from the owner and driver.

Sd/-
Manindra Mohan Shrivastava
Judge