

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 497 of 2016

The National General Insurance Company Limited , Branch
Office, Near R.M.S. Office, Above Central Bank, Jagdalpur,
District Baster, Chhattisgarh (Insurer Of Alleged
Vehicle)(Non-Applicant No.3)

---- Petitioner

Versus

1. Bhagwan Singh S/o Samaru Ram, Aged About 60 Years Caste
Gond, R/o Kontagaon, Police Station Korar, Distrit North Bastar
Kanker, Chhattisgarh
2. Hemlal S/o Bhagwan Singh, Aged About 38 Years Caste Gond,
R/o Kontagaon, Police Station Korar, Distrit North Bastar Kanker,
Chhattisgarh(Claimants)
3. Munish Kumar Dewangan S/o Arun Kumar Dewangan, Aged
About 28 Years R/o Village Taroud, Tahsil And Police Station
Balod, District Balod, Chhattisgarh (Driver Of Offending
Vehicle)(Non-Applicant No.1)
4. Kantilal Dewangan S/o Ghanaram Dewangan, R/o Ward No.1,
Jawaharlal Nehru Ward, Charama, Tahsil And Police Station
Charama, District North Bastar Kanker, Chhattisgarh (Owner Of
Offending Vehicle)(Non-Applicant No.2)

---- Respondents

Mr. Qamrul Aziz, counsel for the appellant/s.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/05/2016

Heard on admission.

The order passed by the Tribunal is challenged on the sole
ground that as the driver was not having valid licence or had learning
licence to drive the vehicle, the award of the Tribunal directing the
appellant Insurance Company to pay and then to recover from the owner
is illegal.

This Court, in the case of National Insurance Company Ltd. Vs.
Kashi Das @ Mohan Das and Others, decided on 3rd of May, 2016 in

M.A. No.496 of 2003, relying upon the judgment of the Supreme Court in the cases of **S. Iyyapan Vs. United India Insurance Company Limited & Anr. (2013) 7 SCC 62**, **National Insurance Company Ltd. Vs. Swarn Singh & Ors. (2004) 3 SCC 297** and **Jawahar Singh Vs. Bala Jain & Ors. (2011) 6 SCC 425** has held that if the breach of policy condition relates to defect of licence, then also the Insurance Company has to pay though it may recover it from the owner.

With the clarification as contained in para 19 of the aforesaid decision of this Court, this appeal is dismissed.

Sd/-
(Manindra Mohan Shrivastava)

J U D G E