

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 496 of 2016

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

---- Petitioner

Versus

1. Jitendra Kumar Sahu S/o Rashuram Sahu, Aged About 22
Years Caste Teli, R/o Village Petoli, Tahsil And Police Station
Kanker, District Kanker, Chhattisgarh(Claimant)
2. Prahlad Kuldeep S/o Shivkumar Kuldeep, Aged About 22 Years
R/o Village Kodagaon, Police Station And Tahsil Kanker,
District North Bastar Kanker, Chhattisgarh (Driver Of Offending
Vehicle)(Non-Applicant No.1)
3. Jayant Kumar Deepak S/o Kartik Ram Deepak, R/o Village
Lakhanpuri, 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 no
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