NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No. 492 of 2014

1. Sheikh Jabbar S/o Sheikh Hussain, aged about 47 years, registered owner of Pickpup No.CG 10-C 2164, R/o Tarbahar, Bilaspur, District Bilaspur (CG)
2. Muni Das @ Laxmandas S/o Amardas, aged about 20 years, driver of Pickpup No. CG 10-C 2164, R/o Daupara, Mungeli, PS & Tehsil Mungeli, District Mungeli (CG)

---- Appellants

Versus

1. Dwarika Yadav S/o Vachan Yadav, aged about 18 years, R/o village Silli, PO Fasterpur, PS & Tehsil Mungeli, District Mungeli (CG)
2. The Oriental Insurance Company Limited, Rama Trade Centre, Bus Stand Bilaspur, District Bilaspur (CG)

---- Respondents

For Appellants	:	Shri Mukesh Sharma, Advocate
For Respondent no. 1	:	Shri A. L. Singroul, Advocate
For Respondent no. 2	:	Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

08/12/2017

Present is an appeal by the owner-cum-driver assailing the award dated 06.02.2014 passed by the Additional Motor Accident Claims Tribunal, Mungeli (CG) in Claim Case No. 68 of 2011. Vide the impugned award, the Tribunal, in an injury case under Section 166 of MV Act, has awarded a compensation of Rs.1,30,000/- with interest @ 6% per annum from the date of application.

2. While passing the said award, the Tribunal has exonerated the Insurance Company and fastened the liability of payment of compensation upon the present appellants.

3. Counsel for the appellants submits that the only ground for exonerating the Insurance Company was the driver of the offending vehicle i.e. pickup van bearing registration no. CG 10C 2164 was not having an effective licence. The offending vehicle undisputedly was a light goods vehicle whereas the driver in the instant case Muni Das had a valid licence for driving a light motor vehicle which is not in dispute. He submits that the issue involved in the instant case is squarely covered by the recent larger Bench decision of Hon'ble Supreme Court in the case of **Mukund Dewangan Vs. Oriental Insurance Company Limited** reported in **AIR 2017 SC 3668.** He submits that the finding of the Tribunal in the light of the aforesaid judgment of the Supreme Court would be erroneous and the matter requires suitable modification.

4. Counsel for the respondents, on verification of the facts do not dispute this aspect and also do not dispute the fact that the offending vehicle was also a light motor vehicle in its category and the driver in the instant case had a valid licence for LMV.

5. In view of the aforesaid factual matrix of the case, the appeal deserves to be and is accordingly allowed. The impugned award stands modified to the extent that the liability of payment of compensation shall fall jointly and severally upon the appellants i.e. owner and driver as well as the Insurance Company. The responsibility of payment of compensation shall be upon the Insurance Company. Whatever amount the appellants have deposited while filing the appeal, the same shall be refunded by the Insurance Company to the appellants and the balance of amount should be deposited by the Insurance Company before the Tribunal at the earliest.

6. The appeal thus stands allowed and disposed of.

Sd/-
(**P. Sam Koshy)**
JUDGE

Bhola