NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 674 of 2009

The Oriental Insurance Company Limited, Bhilai, 9/1 South Gangotri, Supela, Supela Chowk, Bhilai, Through: Divisional Office, Divisional Manager, Malviya Nagar, Durg, Chhattisgarh.

---- Appellant

Versus

1. Rakesh Kumar, S/o. Hriday Prasad, Aged 27 years, R/o. Camp-1, Bhilai, District Durg, Chhattisgarh
2. Gokul Singh Gond, S/o. Vishal Singh Gond, R/o. Azad Chowk, Purani Bhilai, P.S. Bhilai-3, District Durg, Chhattisgarh
3. Ayodhya Prasad Satnami, S/o. Kartikram Satnami, R/o. Satnami Para, Kumhari, Bhilai, District Durg, Chhattisgarh

----Respondents

For Appellant	:	Mr. Abhishek Sinha, Advocate along with Mr. Ghanshyam Patel, Advocate
For Claimant/Resp. No.1	:	Mr. A.L. Singroul, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/10/2017

1. Present is an appeal under Section 173 of the Motor Vehicles Act assailing the award dated 27.03.2008, passed by the 9th Additional Motor Accident Claims Tribunal (FTC) Durg, Chhattisgarh, in Motor Accident Claim Case No.19/2008.
2. Vide the impugned award in a claim case under Section 166 of the Motor Vehicles Act, the Tribunal has awarded a compensation of an amount of Rs.1,07,988/- with interest @ 6% per annum from the date of application.
3. The liability has been fastened upon the Insurance Company with a liberty to recover the same from the Owner of the offending vehicle i.e. Minidor Champion bearing registration No. CG-07-T-0583.
4. The present is an appeal by the Insurance Company on two grounds, primarily on the ground that the Driver of the offending

vehicle at the relevant point of time did not have proper endorsement of driving a Transport Vehicle, whereas he had only a license of driving a Light Motor Vehicle and same would amount to breach of policy condition and the Insurance Company therefore should have been completely exonerated of its liability to pay compensation.

5. The said issue raised by the Insurance Company is squarely covered by the recent Larger Bench's decision of the Hon'ble Supreme Court in the case of ***"Mukund Dewangan vs. Oriental Insurance Company Limited" AIR 2017 S.C. 3668***, where therein it has been held by the Hon'ble Supreme Court that merely because the endorsement to drive the Transport Vehicle is not available when the driver has a license to drive a Light Motor Vehicle, the Insurance Company cannot be exempted or exonerated of its liability of indemnifying the Owner.

6. So far as the illegality in respect of the vehicle not having proper permit, the Tribunal has already given a finding in favour of the Insurance Company, however the Tribunal has ordered for pay and recovery in the light of the decision of the Hon'ble Supreme Court in the case of "***National Insurance Co. Ltd. v. Challa Bharathamma and others" 2004 (8) SCC 517.***

7. In the opinion of this Court the said finding does not warrant any interference as the issue also stands fully fortified from the decision of the Hon'ble Supreme Court referred to above. The appeal thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved