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HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 376 OF 2015

The National Insurance Company Limited, through the Branch Manager, Branch Office- Hotel Astha Complex, State Bank Road, Civil Line, Mandla, District Mandla (M.P.)

… Appellant

Versus

1. Mustakim @ Israfil Mohammad, S/o Ismail, Mohammad, aged about 26 years, R/o Biranpur (Shakti Ghat), Tahsil and Police Station- Saja, District Bemetara (C.G.)
2. Madanlal, S/o Lalman Rahangdale, aged about 45 years, R/o Village- Harrabhath, Post-Mandai, Police Station-Birsa, Tahsil- Baihar, District Balaghat (M.P.)

… Respondents

For Appellant : Mr. Goutam Khetrapal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/09/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, filed by the Insurance Company, assailing the award dated 26.11.2014 passed by the Motor Accident Claims Tribunal, Bemetara, in Claim Case No. 70/2013.

2. Vide the impugned award dated 26.11.2014, the Tribunal, in a proceeding under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs. 1,97,543/- in favour of respondent no.1-claimant, with interest thereon at the rate of 6% per annum from the date of filing of the claim application.

3. The ground raised by the appellant-insurance company is that the driver of the offending vehicle at the relevant point of time did not have an endorsement of permission to drive a transport vehicle and therefore there is a breach of policy condition and thus the finding of the Tribunal being erroneous the same was sought to be set aside/quashed.

4. However, perusal of the record of the case shows that the vehicle involved in the case is a DI 207 Pickup Van, bearing Registration No. MP50-G-0517, which was owned and driven by respondent no.2.

Undisputedly, the said pickup van is a Light Motor Vehicle. It is also not in dispute that the driver of the said vehicle had a licence to drive Light Motor Vehicle. The only allegation is that the licence did not have an endorsement permitting him to drive a transport vehicle. The issue raised by the appellant-insurance company in this case stands squarely decided by a larger Bench of the Hon'ble Supreme Court in a recent decision rendered in the case of **Mukund Dewangan** v. **Oriental Insurance Company Limited, AIR 2017 SC 3668,** wherein it has been categorically held that merely because there is no endorsement of permission to drive a transport vehicle and the driver having a proper licence to drive a Light Motor Vehicle, the Insurance Company cannot be exonerated of its liability of payment of compensation.

5. The appeal of the Insurance Company thus deserves to be and is accordingly dismissed, in the light of the decision of the Hon'ble Supreme Court in **Mukund Dewangan** (supra).

Sd/-
(P. Sam Koshy)
Judge

/sharad/