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HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No. 1451 of 2007

The Oriental Insurance Company Limited, Malviya Nagar, Durg (CG) through Divisional Manager, Divisional Office, Malviya Nagar, Durg (CG)

---- Appellant

Versus

1. Smt. Prachi W/o Vaibhaw Ariya, aged about 25 years, R/o Awanti Bihar Telibandha crossing Raipur (CG)
2. Ku. Priyal D/o late Praful Gajanand Vaidaya, aged about 23 years, R/o 2/10 Anjali Vila Priyadarshani Parishar (West) Bhilai Durg (CG)
3. M/s Tomar Construction Company R/o C-3/47 Janakpuri New Delhi-110058, Branch Office 87 HIG, 1st Floor Housing Board Colony near Kamala College Road Rajnandgaon (CG)
4. Ghansham Das Sahu S/o Bakhariya Sahu, about 24 years, through Branch Office, M/s Tommar Construction Company Branch Office 87 HIG, 1st Floor Housing Board Colony near Kamala College Road Rajnandgaon Niwas : village Mokhala Lalbagh, Rajnandgaon (CG)

---- Respondents

For Appellant	:	Shri Raj Awasthi, Advocate
For Respondents 1 &2	:	Shri A. L. Singroul, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

26/09/2017

Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act challenging the award dated 14.09.2007 passed by the 9th Additional Motor Accident Claims Tribunal (FTC), Durg (CG) in Motor Accident Claim Case No.235/2005. Vide the impugned award, the Tribunal has in a proceeding under Section 166 of the MV Act awarded a compensation of Rs.6,36,500/- with interest @ 6% per annum.

2. The only ground raised by the Insurance Company in the present appeal is that the driver of the offending vehicle at the relevant point of time did not have a valid licence. According to the counsel for the appellant, the vehicle involved in the accident was a tractor attached with a trolley and the driver of the tractor had a licnece to drive only an LMV. Counsel for the appellant submits that the trolley attached with the tractor gets converted into goods transport vehicle and there was no endorsement in the licence for driving a goods transport vehicle, therefore, the Insurance Company cannot be fastened with the liability of payment of compensation.

3. This Court is of the opinion that the issue involved in the present appeal can be decided taking aid of the larger Bench decision of the Supreme Court recently decided in the case of **Mukund Dewangan Vs. Oriental Insurance Company Limited** reported in **AIR 2017 SC 3668** wherein it has been specifically decided by the Supreme Court that merely because there was no endorsement regarding permission to drive the transport vehicle pertaining to the same category of vehicle by itself would not absolve the Insurance Company of its liability.

4. In the instant case also undisputedly the tractor is a “light motor vehicle” and the driver at the relevant point of time had a valid licence to drive a light motor vehicle. The only fact that there was a trolley attached to the tractor as a result of which it got converted into a goods transport vehicle and there being no endorsement for driving a goods transport vehicle by itself would not in the instant case absolve the Insurance Company from indemnifying the owner. The judgment of the Hon'ble Supreme Court in the case of Mukund Dewangan squarely applies in this case.

5. Thus, the appeal of the Insurance Company being devoid of merits, deserves to be and is accordingly dismissed. As a result of the dismissal of the appeal, the interim order granted by this Court also gets merged with the final order. The Insurance Company shall deposit the balance amount of compensation if not already deposited.

Sd/-

(P. Sam Koshy)
JUDGE

Bhola