

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No.1220 of 2011

The New India Assurance Co.Ltd., Through the Divisional Manager,
Divisional Office, Kachhari Chowk, Raipur (C.G.)

---Appellant

Versus

1. Dulari Bai Verma W/o Late Ashok Kumar Verma, aged about 35 years.
2. Pramod Verma S/o Late Ashok Kumar Verma (Minor), aged about 17 years, Through his mother and natural guardian Dulari Bai Verma.
3. Teej Bai W/o Late Ramji Verma, aged about 65 years.
All are R/o Verma Niwas, Bazar Chowk, Behind Radhe Krishna Hair Dresses, Bhanpuri, Raipur, Tehsil & District Raipur (C.G.).
4. Bhagwati Prasad S/o Anand Ram, R/o Village Chutchutiya, Thana Simga, District Raipur (C.G.). (Driver)
5. Girdhar Devangan S/o Shri R.P.Devangan, R/o village Simga, Ward No.3, Thana Simga, District Raipur (C.G.). (Owner)

---Respondents

For appellant/Insurance Co. : Shri Mahavir Bhatnagar, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/12/2017

1. Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicle Act assailing the award dated 13/09/2011 passed by the learned 2nd Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Motor Accident Claim Case No.94/2010.
2. Vide the said impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicle Act has awarded a compensation of Rs.3,75,000/- with interest @ 6% per annum from the date of application.

3. The counsel for the appellant/Insurance Company submits that, the sole ground of challenge was that the driver of the offending vehicle was not having an effective driving license on the date of the accident i.e. on 17/05/2010.

4. Perusal of record would show that a witness from the office of the R.T.O. was examined namely Rajesh Bhargava-NAW/1. He has in his evidence categorically deposed before the Tribunal that, the driver on the date of accident had a license for driving the Motorcycle and Light Motor Vehicle effective from 25/04/2007 to 24/04/2027. The only discrepancy detected was that, the driver's license did not have the endorsement permitting him to drive the transport vehicle. This ground of the Insurance Company is no longer a good ground for challenging the liability in the light of the recent larger Bench decision of the Hon'ble Supreme Court in the case of **Mukund Dewangan Vs. Oriental Insurance Company Limited [AIR 2017 SC 3668]**.

5. In the light of the aforesaid judgment of the Supreme court, the present appeal loses its efficacy and the appeal being devoid of merits deserves to be and is accordingly rejected.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE