NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 365 of 2014

The Oriental Insurance Co. Ltd. Through Its Divisional Manager, Divisional Office, 1st Floor, Rama Trade Centre, Near Bus Stand, Bilaspur, Civil and Revenue District Bilaspur C.G., Pin- 495001

---- Appellant

Versus

1. Kavitri Chandravanshi Wd/o Late Shri Vishnu Chandravanshi Aged About 47 Years
2. Purnendra Chandravanshi S/o Late Shri Vishnu Chandravanshi Aged About 18 Years
3. Mahendra Chandravanshi S/o Late Shri Vishnu Chandravanshi Aged About 16 Years

   Respondent No.3 is Minor, and represented Through Mother and natural guardian Smt. Kavitri Chandravanshi (Respondent No.1).

   All are R/o Raj Kishor Nagar, Bilaspur, P.S. Sarkanda, Tah. And Distt. Bilaspur, Chhattisgarh
4. Narayan Yadav S/o Rajaram Yadav Aged About 28 Years R/o village Bodlakala, Tah. Sahaspur Lohara, P.S. Kawardha, Distt. Kabirdham, Chhattisgarh

----Respondents

For Appellants	:	Mr. R.N. Pusty, Advocate
For Respondents No. 1 to 3	:	Mr. Amiyakant Tiwari, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23/10/2017

1. The challenge in the present appeal is to the order dated 13.01.2014, whereby the Tribunal below has allowed an application under Section 140 of the Motor Vehicles Act and have ordered for depositing an amount of Rs.50,000/- towards no fault of liability.
2. The challenge to the order is mainly on two grounds, firstly, the Driver of the offending vehicle not having proper endorsement, so far as permitting him to drive a transport vehicle and the second ground is that the vehicle did not have a valid permit at the time of accident.

3. So far as the first ground of not having proper endorsement on driver's license is concerned, the issue stands settled by the decision of the Hon'ble Supreme Court in the judgment reported in ***AIR 2017 S.C. 3668 (Mukund Dewangan vs. Oriental Insurance Company Limited)***. As regard the second ground is concerned, this Court is of the opinion that the said ground would not have been permissible at this stage while deciding the application under Section 140 of the Motor Vehicles Act.
4. The appellant shall have the liberty to raise this objection in the written statement which they have already raised and the Tribunal shall proceed with the matter by framing an issue in this regard to consider and decide while finally deciding the claim case.
5. Thus both these grounds being not sustainable, the appeal thus stands rejected.
6. The Tribunal is directed to proceed and decide the matter at the earliest.
7. The Registry is directed to forthwith send the record back to the trial Court. Since both the claimants as well as the Insurance Company are present before the Court, they are directed to appear before the concerned trial Court on the 21st of November, 2017. The Registry should ensure that the record reaches the trial Court well before the next date fixed by this Court.

Sd/-

(P. Sam Koshy)
Judge

Ved