

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 827 of 2017**

Manager, National Insurance Company Limited Through Branch
Office No.2, Thakkar Chambers, G.E.Road, Bhilai, District Durg,
Chhattisgarh

---- Appellant**Versus**

1. Smt. Gauri Gajpal Wd/o Late Naresh Gajpal, Aged About 40 Years
2. Ku. Tarini D/o Late Naresh Gajpal, Aged About 19 Years
3. Surendra Gajpal S/o Late Naresh Gajpal, Aged About 15 Years
Minor Through Natural Guardian Mother Smt. Gaurai Gajpal
(Respondent No.1)
4. Smt. Fagni Gajpal Wd/o Late Bisar Gajpal,
All are R/o Village And Post Medesara, Tahsil Dhamdha, Police
Station Nandini, District Durg, Chhattisgarh
5. Sitaram Patel S/o Ajit Patel, Aged About 48 Years R/o Banjarpur,
Police Station Devkar, District Durg, Chhattisgarh, Presently R/o
Mangal Bazar, Chhawani, Bhilai, P.S. Jamul, District Durg,
Chhattisgarh
6. Rajpal Singh Bhatiya S/o S.S. Bhatiya, R/o Bhatiya Medical Store,
G.E.Road, Bhilai-3, District Durg, Chhattisgarh

----Respondents**MAC No. 831 of 2017**

Manager, National Insurance Company Limited Through Branch
Office No.2, Thakkar Chambers, G.E.Road, Bhilai, District Durg,
Chhattisgarh

---- Appellant**Versus**

1. Ganesh Lal Yadav S/o Manrakhan Lal Yadav, Aged About 49 Years
2. Smt. Puniya Yadav W/o Ganesh Lal, Aged About 46 Years
3. Om Kumar S/o Ganesh Lal, Aged About 21 Years
All are R/o Village And Post Medesara, Tahsil Dhamdha, Police
Station Nandini, District Durg, Chhattisgarh
4. Sitaram Patel S/o Ajit Patel, Aged About 48 Years R/o Banjarpur,
Police Station Devkar, District Durg, Chhattisgarh, Presently R/o
Mangal Bazar, Chhawani, Bhilai, P.S. Jamul, District Durg,
Chhattisgarh
5. Rajpal Singh Bhatiya S/o S.S. Bhatiya, R/o Bhatiya Medical Store,
G.E.Road, Bhilai-3, District Durg, Chhattisgarh

----Respondents

For Appellant	:	Mr. Qamrul Aziz, Advocate
---------------	---	---------------------------

Hon'ble Shri Justice P. Sam Koshy
Order on Board

26/09/2017

1. These are two appeals arising out of the same accident in respect of two different claim cases decided by the 8th Additional Motor Accident Claims Tribunal, Durg, Chhattisgarh, decided on same date i.e. 27.03.2017, in two claim cases i.e. Motor Accident Claim Case Nos. 41/2015 and 42/2015. The MAC No. 827/2017 has been filed assailing the award passed in Motor Accident Claim Case No. 41/2015 and MAC No. 831/2017 has been filed assailing the award passed in Motor Accident Claim Case No. 42/2015.
2. Vide the two impugned awards the Tribunal has passed an award of payment of compensation of Rs.8,64,000/- as well as Rs.8,23,500/- in the two claim cases respectively with interest @ 9% per annum from the date of application.
3. The challenge to the impugned award is on the ground that the vehicle involved in the accident was a Petrol Tanker which otherwise falls within the category of a Hazardous Goods Transport Vehicle, whereas the driver of the offending vehicle at the relevant point of time had a license of only driving a Heavy Goods Transport Vehicle. In the absence of any such endorsement permitting him to drive the Hazardous Goods Transport Vehicle the Insurance Company could not have been fastened with the liability of payment of compensation.
4. The undisputed fact in the instant case is that the driver of the offending vehicle at the relevant point of time did have a license to drive a Heavy Goods Transport Vehicle. The only lacuna which

appears was that there being no endorsement permitting him to drive the Hazardous Goods Transport Vehicle.

5. This Court is of the opinion that the analogy which has been laid down by the Hon'ble Supreme Court in the recent Larger Bench's decision of "***Mukund Dewangan vs. Oriental Insurance Company Limited***" AIR 2017 S.C. 3668, though the said case was pertaining to Light Motor Vehicle and the endorsement required was for Goods Transport Vehicle of the smaller category, but the same principles laid down in the aforesaid judgment could be applied in the dispute raised by the Insurance Company in the present appeal.
6. Thus taking aid of said judgment of the Hon'ble Supreme Court in the case of Mukund Dewangan (Supra), this Court is of the opinion that the finding of the Tribunal does not warrant any interference and the same also cannot be said to be bad in law.
7. The appeal thus fails and accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge