NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 996 of 2017

Ramesh Kumar S/o K.D. Singh Aged About 45 Years R/o Sanjay Gandhi Nagar, Tahsil- Bilaspur, District- Bilaspur, Chhattisgarh

---- Appellant

Versus

- Bhakala Ram S/o Bhau Ram Dhritlahare Aged About 50 Years R/o Village- Domuhani, Tahsil And District- Bilaspur, Chhattisgarh
- Ramchandra Kachi S/o Ramanand Kuswaha Aged About 50 Years R/o Village Rogda, P.S. Akaltara, District- Janjgir-Champa, Chhattisgarh
- H.D.F.C. Agro General Insurance Company Limited, Shrikant Verma Marg Near Rama Magnato Mall, Tehsil And District Bilaspur, Chhattisgarh

----Respondents

For Appellant	:	Mr. Basant Dewangan, Advocate
For Respondent No.3	:	Mr. Amrito Das, Advocate

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

13/09/2017

1. The appeal is by the owner of a Mini Bus bearing registration No. CG-10-G-0768 challenging the award dated 31.03.2017, passed by the 3rd Additional Motor Accident Claims Tribunal, Bilaspur, in Claim Case No. 348/2014. Vide the impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.5,85,299/- with interest @ 6% per annum from the date of application.

2. While passing the award, the Tribunal exonerated the Insurance Company and fastened the liability upon the appellant/owner. The contentions of the owner challenging the said award is two folds, firstly the driver did have a valid license on the date of accident and thus the findings of the Tribunal that he did not have a valid license was erroneous. Secondly, in view of the recent Larger Bench decision of the Hon’ble Supreme Court in the case of ***“Mukund Dewangan vs. Oriental Insurance Company Limited”*** i.e. Civil Appeal No. 5826/2011, decided on 03.07.2017, the requirement of

an endorsement of the R.T.O. granting permission to drive a passenger vehicle or a transport vehicle in the event if the vehicle involved in the accident is a vehicle which would fall within the definition of a Light Motor Vehicle was not required nor will it amount to breach of policy condition.

3. So far as the first ground is concerned, this Court does not find any strong case made out by the appellant since there is a categorical finding that the license which was issued to the appellant for driving a PSB Bus stood expired on the date of accident as has been proved by the witness from the concerned RTO. However, so far as the second ground raised by the appellant thus has some force for the reason that the vehicle involved in the accident was a Mini Bus, which as per the registration book itself falls within the ambit of "LMV".

4. Admittedly on the date of the accident i.e. on 09.03.2014 the driver of the offending vehicle had a valid license to drive a "LMV". Thus, in the light of the decision of the Hon'ble Supreme Court in the case of "Mukund Dewangan" (supra) the said shortfall cannot be detrimental to the extent of the Insurance Company getting exonerated of its liability indemnifying the owner. The appeal thus deserves to be and is accordingly allowed on this ground alone and it is held that the impugned award stands modified to the extent that it shall be the responsibility of the respondent No.3- H.D.F.C. Agro General Insurance Company Limited to pay the amount awarded by the Tribunal.

5. The appeal thus stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge

Ved