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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1395 of 2017

National Insurance Company Limited Through The Branch Manager,
Branch Office Verdhman Nagar, Nagpur, District Nagpur,
Maharashtra.

---- Appellant

Versus

1. Smt. Samni Bai Rawte W/o Sukuram Rawte Aged About 45 Years
R/o Bahigaon, Mandlipara, Police Station Keshkal, District
Kondagaon, Chhattisgarh.
2. Prakash Nag S/o Mannuram Nag Aged About 35 Years R/o
Pendrahan, Amapara, Vishrampur, Tahsil Baderajpur, District
Kondagaon, Chhattisgarh.
3. Kishorilal Dhruw S/o Chandan Singh Dhruw R/o Kodobhat, Tahsil
Kanker, District Kanker, Chhattisgarh.

---Respondents

For Appellant	:	Mr. Avinash Chand Sahu, Advocate
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/11/2017

1. Present is an appeal by the Insurance Company under Section 173
of the Motor Vehicles Act assailing the award dated 04.05.2017,
passed by the Motor Accident Claims Tribunal, Kondagaon,
Chhattisgarh, in Claim Case No. 62/2016.
2. Vide the impugned award, the Tribunal in a death case under
Section 166 of the Motor Vehicles Act has awarded a compensation
of Rs.8,09,000/- with interest @ 9% per annum from the date of
application.
3. The first ground of challenge to the impugned award is that the
Driver of the offending vehicle at the relevant point of time did not
have proper endorsement on his license to drive the transport
vehicle and the other ground raised by the counsel for the appellant

that the vehicle at the relevant point of time did not have a valid permit. That perusal of record shows that the Insurance Company has not led any evidence to prove that the vehicle did not have a permit at the relevant point of time. In the absence of any evidence, the grounds raised by the Insurance Company stands negated.

4. That, so far as the issue of the Driver not having proper endorsement in his license, this Court is of the opinion that the issue involved in the instant case is no longer ***res integra*** as it has already been settled by the recent Larger Bench decision of the Hon'ble Supreme Court in the case of ***"Mukund Dewangan vs. Oriental Insurance Company Limited"*** AIR 2017 S.C. 3668, whereby it has been held that merely because the Driver at the relevant point of time did not have a proper endorsement by itself would not absolved the Insurance Company of its liability rather it has been held that no such endorsement is required in the event if the vehicle involved is of the same class.
5. Accordingly, in the light of the decision of the Hon'ble Supreme Court in the case of "Mukund Dewangan" (supra), the present appeal thus being devoid of merit the same deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved