NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 994 of 2012

Bisahin Bai W/o Govardhan Sahu Aged About 48 Years R/o Village Bagdehipara, Nawapara, Post Nawapara, P.S. Gobra Nawapara, District Raipur, Chhattisgarh

---- Appellant

Versus

1. Tameshwar S/o Paltan Ram Sahu Aged About 30 Years R/o Village Charbhatthi, Post Belar, Police Station Fingeshwar, District Raipur, Chhattisgarh
2. Chandraparakash @ Prakash @ Golu Sahu S/o Basant Sahu Aged About 23 Years R/o Village Somwari Bazar, Post Nawapara, P.S. Gobra Nawapara, District Raipur Chhattisgarh
3. The Regional Manager, Through Reliance General Insurance Company Limited Ravi Bhawan, Jai Stambh Chowk, P.S. City Kotwali, District Raipur Chhattisgarh

---- Respondents

For Appellant	:	Mr. P.P. Sahu, Advocate along with Mr. Vasant Zokarkar, Advocate
For Respondent No.1	:	Mr. Shivendu Pandya, Advocate
For Respondent No.3	:	Mr. Sourabh Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20/02/2018

1. The present is an appeal by the Owner under Section 173 of the Motor Vehicles Act. Challenge is to the award dated 27.06.2012, passed by the Additional Motor Accident Claims Tribunal, Gariyaband, Chhattisgarh, in Claim Case No. 73/2011.

2. Vide the impugned award, the Tribunal in an injury case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.1,12,500/- with interest @ 7.5% per annum from the date of application.

3. While passing the impugned award, the Tribunal had exonerated the Insurance Company on the ground that the Driver did not have a license to Driver the Transport Vehicle and therefore there was a

breach of policy condition and the liability was shifted upon the present appellant-Owner.

4. The counsel for the appellant submits that the issue involved in the case stands squarely covered 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*** in as much as the vehicle involved in the case was admittedly a Light Motor Vehicle and the finding of the Tribunal in paragraph No. 19 itself would show that the Driver of the vehicle i.e. the respondent No.1 had a valid license to drive a Light Motor Vehicle. In the light of the aforesaid admitted factual matrix of the case, the award of the Tribunal needs to be suitably modified and the liability of payment of compensation should fall upon the Insurance Company.

5. The counsel for the respondent though do not dispute the fact that the vehicle involved in the accident was a Light Motor Vehicle and the respondent No.1 had a license to drive a Light Motor Vehicle. The only objection which the Insurance Company has raised is that the vehicle at the relevant point of time was not being driven by the respondent No.1, but was being driven by one Deepak. In either case what is relevant to be considered is that the whether the so called Driver of the offending vehicle had a license to drive a Light Motor Vehicle or not?

6. It is nobody's case that the respondent No.2 Chandraprakash or for that matter, the person who did Owner claims to have driven the vehicle i.e. Deepak did not have a license to drive a Light Motor Vehicle.

7. Under the given facts and circumstances of the case keeping in view of the judgment of the Hon'ble Supreme Court in the case of Mukund Dewangan (supra), the present appeal deserves to be and is accordingly allowed.

8. The liability of payment of compensation stands shifted upon the respondent No.3-Insurance Company. Any amount which has been deposited by the appellant while filing the present appeal, the same shall be refunded back upon the Insurance Company depositing the entire amount before the Tribunal.

Sd/-
(P. Sam Koshy)
Judge

Ved