

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 326 of 2014

- The National Insurance Company Limited Thru- Divisional Manager, Divisional Office, Mobin Mahal, G.E. Road, Raipur C.G.

---- Appellant

Versus

1. Smt.Shivani Majumdar W/o Balram Majumdar Aged About 39 Years, occupation – housewife,
2. Vishwajeet Majumdar S/o Late Balram Majumdar Aged About 16 Years
3. Ku. Kajal Lata Majumdar D/o Late Balram Majumdar Aged About 14 Years
4. Vimal Majumdar S/o Late Balram Majumdar Aged About 10 Years

Minor respondents No. 2 to 4 through natural guardian mother Shivani Majumdar,

All resident of Arkachhepdapara, Kondagaon (CG)

5. Kanhaiya Lal Majumdar, occupation owner, R/o Kunwarkot Road, Kondagaon, Tah. And Post- Kondagaon C.G.

---- Respondents

For Appellant	:	Shri Qamrul Aziz, Advocate.
For Respondent Nos.1 to 4	:	Shri A.L. Singroul, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

22/10/2018 :

This is an appeal by the appellant/insurance company challenging the award dated 23.1.2014 passed by Commissioner, Workmen Compensation Act, Labour Court, Jagdalpur (CG) in Case No.7/99/WC Act/Fatal whereby the Commissioner has fastened liability

on the appellant/insurance company of paying compensation of Rs.1,64,560/- to the claimants.

02. According to the claimants, deceased Balram Majumdar was working as driver of respondent No.5 and was driving his vehicle Metador bearing No. MP 25/1844. On 21.7.1994 when deceased Balram by driving the said vehicle was going from Jagdalpur to Kondagaon, he met with an accident near Baniyagaon at 10 pm and ultimately died during the course of treatment on 26.7.1994. Admittedly, at the relevant time the said vehicle was owned by respondent No.5 and insured with the appellant.

03. On claim petition being filed by the claimants/respondents No. 1 to 4, who are wife and children of the deceased, the Commissioner awarded total compensation of Rs.1,64,560/- in their favour fastening the liability on the insurance company (appellant herein) on the ground that the vehicle was insured with it at the relevant time and there was no breach of policy conditions.

04. Learned counsel for the appellant submits that the Commissioner has erred in fastening liability upon the insurance company because the driver/deceased was not having a valid and effective driving licence to drive the vehicle in question and as such, the vehicle was being plied in contravention of the insurance policy.

05. On the other hand, counsel for the respondents/claimants has supported the impugned judgment.

06. Heard learned counsel for the parties and perused the material on record.

07. Admittedly, on the date of accident the driver/deceased was having a valid and effective licence to drive Light Motor Vehicle (LMV) and the vehicle being driven by the deceased was Metador. Though the vehicle in question is Metador, which was a transport vehicle and there is no endorsement in the driving licence in this regard, but in view of decision of the Hon'ble Supreme Court in the matter of ***Mukund Dewangan Vs. Oriental Insurance Company Ltd.***, reported in **(2017) 14 SCC 663**, no such endorsement is required in the driving licence for driving transport vehicle if its unladen weight does not exceed 7500 kg. Therefore, merely for want of endorsement in this regard in the driving license authorizing the driver to drive the vehicle in question, it cannot be said that he was not possessing the valid and effective driving license to drive the said vehicle. In the matter of Mukund Dewangan (supra), it has been observed by the Hon'ble Supreme Court as under;

“Held, the effect of amendment of Form 4 by insertion of “transport vehicle” related only to categories which were substituted in the year 1994 and the procedure to obtain driving licence for transport vehicle of class of “light motor vehicle” continues to be the same – There was no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect – Further held, even otherwise the Form could not control the substantive provisions carved out in Ss. 10(2)(d) and 10(2)(e) and the interpretation of the Form has also to be in tune with the Statement of Objects & Reasons and the provisions of the Act inserted by virtue of the amendment – Interpretation of Statutes – Basic Rules – Harmonious Construction – Subordinate/Delegated Legislation/Rules Under the Act – Central Motor Vehicles Rules, 1989, Form 4 and R.14 (before and after 28.03.2001)”

08. Applying the ratio of law laid down by the Supreme Court in the matter of **Mukund Dewangan (supra)**, it is apparent that the driver of the vehicle in question was holding the valid and effective driving license and even in absence of any endorsement as such in his driving

license authorizing him to drive the said transport vehicle, it cannot be held that he was not possessing the valid and effective driving license at the relevant time.

09. In the result, the appeal being without any substance is liable to be dismissed and is dismissed as such.

Sd/

(Gautam Chourdiya)

Judge