

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 599 of 2011**

National Insurance Co. Ltd., Branch Office Jagdalpur, District Bastar, Chhattisgarh, Through: its Divisional Manager, Bilaspur Branch, Taha Complex, Vyapar Vihar Road, Bilaspur, Chhattisgarh

---- Appellant**Versus**

1. Smt. Kamla Bai Kavde, W/o. Late Mayaram Kavde, Aged about 50 years,
2. Dhanaji Kavde, S/o. Late Mayaram Kavde, Aged about 25 years,
Both are R/o. Village Aalbeda, Post Kanharपुर, District North Bastar, Kanker, Chhattisgarh (Claimants)
3. Rajnath Markam, S/o. Jethuram Markam, Aged about 24 years, R/o. Pataud, Tahsil Kanker, District North Bastar, Chhattisgarh (Driver)
4. Hemant Kumar Sahu, S/o. Narayan Ram Sahu, Aged about 33 years, R/o. Pataud, Tahsil Kanker, District North Bastar, Chhattisgarh (Owner)

----Respondents

For Appellant	:	Mr. Qamarul Aziz, Advocate
For Respondents No. 1 & 2	:	Mr. D.N. Prajapati, Advocate
For Respondents No. 3 & 4	:	Mr. Sandeep Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****11/01/2018**

1. The present is an appeal by the Insurance Company assailing the award dated 05.03.2011, passed by the Motor Accident Claims Tribunal, North Bastar, Kanker, Chhattisgarh, in Claim Case No. 45/2010. Vide the impugned award the Tribunal has awarded a compensation of Rs.2,60,000/- with interest @ 6% per annum from the date of application.
2. The contention of the counsel for the Insurance Company is that the Driver at the relevant point of time did not have a valid endorsement permitting him to drive a commercial vehicle and as such there was a clear breach of policy condition for which the Insurance Company

should have been exonerated of its liability and the liability in fact should have been shifted upon the respondents No. 3 & 4. The issue raised in the instant case is no longer ***res integra*** as it is 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."

3. Admittedly, the vehicle involved in the instant case was a Jeep bearing registration No. CG/09/ZT/0127. Undisputed also is the fact that the driver at the relevant point of time had a license for driving Light Motor Vehicle.
4. In view of the same, the present appeal in the light of the decision of the Hon'ble Supreme Court in ***Mukund Dewangan*** (supra) does not have any merits; the same deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge