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HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No. 641 of 2017

The Oriental Insurance Company Limited through its Divisional Manager, Divisional Office, 1st Floor, Rama Trade Centre, near Bus Stand, Bilaspur, Civil & Revenue District Bilaspur, Chhattisgarh, Pin-495001 ....(Non-Applicant No.3)

---- Appellant

Versus

1. Pavittar Singh S/o Raghuveer Singh, aged about 42 years, R/o Vrinda Nagar, Camp-1, P.S. Chhaoni, Bhilai, Tahsil and District Durg, Chhattisgarh ....(Claimant)
2. Ramdesi Thakur S/o Bhukhau Thakur, aged about 31 years, presently R/o behind LIG Colony, Jhopda, Sector-6, Bhilai, Distt. Durg, Chhattisgarh ....(Driver)
3. Deepesh Kumar Nathwani S/o Mansukh Lal Nathwani, R/o House No.669, Vaishali Nagar, Bhilai, District Durg, Chhattisgarh .... (Owner)

---- Respondents

For Appellant : Shri Pallav Mishra on behalf of Shri R. N. Pusty, Advocate

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Hon'ble Shri Justice P. Sam Koshy

Order On Board

10/01/2018

Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 27.01.2017 passed by the 6th Additional Motor Accident Claims Tribunal, Durg (CG) in Motor Accident Claim Case No.0128/2015. Vide the impugned award the Tribunal in a death case has awarded a compensation of Rs.11,84,324/- with interest at the rate of 9% per annum from the date of application.

2. The ground of challenge in the present appeal is that the driver of the offending vehicle at the relevant point of time did not have a valid licence. According to the counsel for the appellant, the vehicle involved in the accident was a commercial vehicle i.e. Tata 207 bearing registration No. CG 07 C 2935 and the driver had only a licence to drive a light motor vehicle and as such, there is no endorsement in the licence permitting him to drive a commercial vehicle.

3. The issue raised by the appellant in the instant case is no longer res integra in the light of the recent larger Bench Decision of the Supreme Court in the case of **Mukund Dewangan Vs. Oriental Insurance Company Limited** reported in **AIR 2017 SC 3668.**

4. Counsel for the appellant further raises a ground that the delay in lodging of the FIR also creates a doubt on the accident to have occurred by the said Vehicle. However, no substantive evidence has been led in this regard to disprove the contentions of the claimants.

5. Thus, the appeal of the Insurance Company does not have any force and the same stands dismissed.

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Sd/-
(**P. Sam Koshy)**
JUDGE

Bhola