

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 1112 of 2012

- The Oriental Insurance Company Limited, Opposite Adarsh Bal Mandir, Main Road, Police Station Dhamtari & Post Office Dhamtari, District Dhamtari (C.G.)

---- Appellant/Insurer/Non-applicant No.3

Versus

1. Aghan Singh Netam, son of Ghanaram Netam, aged 22 years, Caste-Gond, resident of Village Jhailyamari, Tehsil Narharpur, District North Bastar, Kanker (C.G.)

(Claimant)

2. Rudra Kumar Sahu, son of Anil Kumar Sahu, aged 22 years, resident of Village Belargaon, Police Station Sihava, Tehsil Nagri, District Dhamtari (C.G.)

(Non-applicant No.1/Driver)

3. Anil Kumar Sahu, son of Kheduram Sahu, aged 45 years, resident of Village Belargaon, Police Station Sihava, Tehsil Nagri, District Dhamtari (CG) (Vehicle-Jeep No. CG05-1605)

(Non-applicant No.2/Owner)

---- Respondents

For Appellant	:	Shri Sandeep Shrivastava, Advocate
For Respondent No. 1	:	Shri Bishnu Muni, Advocate appears on behalf of Shri D.N. Prajapati, Advocate
For Respondents 2 & 3	:	None

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

04.04.2019

1. Being aggrieved with the award dated 28.09.2012 passed in Claim Case No. 07 of 2011 by the Additional Motor Accident Claims Tribunal, North Bastar, Kanker (C.G.), the Appellant/Insurance Company has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 challenging the liability fastened upon it.

2. Facts of the case, in brief, are that on 09.07.2009 at about 06:00 pm when Claimant was coming to Village Jhaliyamari by bicycle, non-applicant No.1 – Rudra Kumar Sahu, driver of the offending vehicle Jeep bearing registration No. CG-05 – 1605, owned by non-applicant No. 2 and insured with non-applicant No.3, driving the said vehicle in a rash and negligent manner, dashed the Claimant, as a result

thereof, he sustained the injuries on his head, knee, mouth, ear and other parts of the body.

3. The learned Tribunal, in the impugned award, has awarded a compensation of Rs.58,214/- in favour of the Claimant/Respondent No. 1 with interest @ 7.5% per annum from the date of filing of the application till realization and fastened the liability upon the non-applicants to pay compensation jointly and severally.

4. Learned counsel for the Appellant/Insurance Company raises sole ground that the Tribunal has wrongly fastened the liability on the Insurance Company as the offending vehicle was registered as public carrying passenger vehicle whereas at the time of accident, the driver was having a licence for light motor vehicle (LMV) and there is no any endorsement for transport vehicle in his driving licence.

5. On the other hand, learned counsel for the Claimant/Respondent No.1 supports the impugned award insofar as it relates to fastening of liability on the non-applicants jointly and severally.

6. Heard the learned counsel for the parties and perused the impugned award including the records of the Claims Tribunal.

7. The issue involved in this case has already been considered by the Hon'ble Supreme Court in the matter of **Mukund Dewangan Vs. Oriental Insurance Company Limited** reported in **(2017) 14 SCC 663** whether a driver who is having a licence to drive the "light motor vehicle" is competent to drive "transport vehicle" of that class in absence of such an endorsement, and it was held therein as under:-

"Held, the effect and 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 Statues - 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).”

8. 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 licence and even in absence of the any endorsement as such in his driving licence authorizing him to drive the said transport vehicle, it cannot be held that he was not possessing valid and effective driving licence at the relevant time. Therefore, this Court finds no illegality or infirmity in the findings recorded by the Tribunal holding the non-applicants liable for satisfying the award jointly and severally.

9. In the result, the appeal being without any substance is liable to be dismissed and is accordingly dismissed.

10. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge