

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 402 of 2014**

- ICICI Lombard General Insurance Co. Ltd. Through- its Legal Manager, ICICI General Insurance Company Ltd., Ground Floor, Vanijya Bhawan, Devendra Nagar Road, Raipur C.G.

----Appellant**Versus**

1. Smt. Dhanpati Devi W/o Late Vishnu Ram Aged About 33 Years R/o Navapara Khurd, P.S. Darima, Tah. Ambikapur, Distt. Surguja C.G.
2. Lalchand Panika S/o Sukhlal Panika Aged About 25 Years R/o Saraipara, Rajpuri, P.S. Kotawali, Ambikapur, Distt. Sarguja C.G.
3. Smt. Shobha Tiwari W/o Ashok Tiwari @ Baba Pandit R/o Mahamaya Ward No. 33, Jarahgarh, P.S. And Tah. Ambikapur, Distt. Sarguja C.G.

---- Respondents

For Appellant
For Respective Respondents

Shri Amrito Das, Advocate.
Shri Jitendra Shrivastava, Advocate
and Shri T.R. Chandrakar, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board**

13/03/2019

1. Heard on **I.A. No.1**
2. This is an application for condonation of delay of 50 days in filing the MAC.
3. For the reasons mentioned in the application which is duly supported by affidavit, the same is allowed and delay in filing the MAC is condoned.
4. Also, heard on admission.

5. The appeal being arguable on merits is admitted for hearing.
6. With the consent of the parties, the matter is heard finally.
7. This is an appeal by the Insurance Company against the award dated 22.11.2013 passed by the 1st Additional Motor Accident Claims Tribunal, Ambikapur, District Surguja, C.G. in claim case no. 61/2012 whereby the Tribunal in a death case has awarded a total compensation of Rs.1,50,000/- with interest at the rate of 7.5 percent from the date of application till its realization, fastening the liability on the Insurance Company/non-applicant no.3 jointly and severally along with non-applicant nos.1 & 2.
8. As per claim petition, on 22.12.2010 deceased Kumari Sayal, aged about 04 years, child, died in the motor vehicular accident caused due to rash and negligent driving of Truck 407 bearing registration no.CG15-A-9368 by non-applicant No.1, owned by non-applicant no.2 and insured with non-applicant no.3.
9. On claim petition being filed by the claimant under Section 166 of the Motor Vehicle Act for compensation to the tune of Rs.6,00,000/-, the learned Tribunal considering the evidence led by both the parties awarded compensation as mentioned in para 7 of this judgment.
10. Learned counsel for the appellant submits only on the sole ground that the Tribunal was not justified in fastening the liability on the insurance company because at the time of accident the Driver was not having a valid and effective licence since the vehicle was a transport vehicle whereas, the driver was holding

licence for LMV (non transport vehicle).

11. On the other hand, learned counsel for the respondents support the impugned award.

12. Heard learned counsel for the parties and perused the impugned award.

13. 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).”

14. 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. No any evidence regarding breach of any of the policy conditions has been adduced by the Insurance Company. 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.

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

16. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh