

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 712 of 2014**

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

----Appellant**Versus**

1. Jaikaran Sahu S/o Late Bundel Sahu Aged About 19 Years R/o Village Chhotupara, P.S. Sahaspur Lohara, Distt. Kabirdham C.G.
2. Tagiya Bai Wd/o Late Bundel Sahu Aged About 49 Years R/o village Chhotupara, P.S. Sahaspur Lohara, Distt. Kabirdham C.G.
3. Mansukha Bai D/o Late Bundel Sahu Aged About 23 Years R/o Village Basinjori, P.S. Sahaspur Lohara, Distt. Kabirdham C.G.
4. Shivbati Bai D/o Late Bundel Sahu Aged About 27 Years R/o village Botesur, P.S. Sahaspur Lohara, Distt. Kabirdham C.G.
5. Dashri Bai D/o Late Bundel Sahu Aged About 31 Years R/o village Odiya Kala, P.S. Sahaspur Lohara, Distt. Kabirdham C.G.
6. Govind Prasad S/o Ramji Gond Aged About 23 Years R/o village Podi, Near Electricity Office, P.S. Bodla, Distt. Kabirdham C.G.
7. Mohammad Safiq Khan S/o Munshirja Khan Aged About 25 Years R/o Radhakrishna Ward No. 15, Naya Talab, Behind Temple, Kawardha, P.S. Kawardha, Distt. Kabirdham C.G.

---- Respondents

For Appellant	Shri Amrito Das, Advocate.
For Respondent nos. 1 to 5	Shri Amit Kumar Sahu, Advocate.
For Respondent nos. 6 & 7	Shri Basant Dewangan, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

11/03/2019

Heard on admission.

1. Being aggrieved with the award dated 18.02.2014 passed in

Claim Case No.55/2010 by the Motor Accident Claims Tribunal, Kabirdham (Kawardha), (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 27.04.2010 at about 2:30 pm when deceased/Bundel Sahu was going on his bicycle, non-applicant No.1/respondent no.6 – Govind Prasad, driver of the offending bolero pick up bearing registration No.CG09-B-0511, owned by non-applicant No. 2/respondent no.7 and insured with non-applicant No.3, driving the said vehicle in a rash and negligent manner, dashed the deceased, as a result thereof, he sustained the injuries on his body and during treatment he died. At the time of accident, deceased was aged about 60 years and earning Rs.30,000/- per annum as Labour.
3. The learned Tribunal, in the impugned award, has awarded a compensation of Rs.1,67,000/- in favour of the Claimants 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 respondents support 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 at the admission stage.
10. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge