

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 674 of 2014

- ICICI Lombard, General Insurance Company Limited, Registered Office: ICICI Bank Towers, Bandra-Kurla, Complex, Mumbai, 400051, through its Legal Manager, ICICI Lombard General Insurance Company Limited, Ground Floor, Vanijaya Bhawan, Devandra Nagar Road, Raipur (C.G.)

---- Appellant/Insurer

Versus

1. Pramesh Ratre, S/o Manohar Lal Ratre, aged about 17 years, Being minor represented through father Manohar Lal Ratre, S/o Hagruram Ratre, aged about 40 years, R/o Village Hafa (Sakri), P.S. Chakarbhatta, Tahsil & District Bilaspur (C.G.)
(Claimant)
2. Dinesh Kumar Banjare S/o Ramadhar Banjare, aged about 26 years, R/o Village Navganwan, Post Semartal, P.S. Koni, Tahsil & District Bilaspur (C.G.)
(Driver)
3. Khushal Bhosle W/o Raghupuri Rao, R/o House No. H/45, Village Lalpur, Tahsil Podi Uroda, District Korba (C.G.)
(Owner)

---- Respondents

For Appellant	:	Shri Sourabh Sharma, Advocate
For Respondents	:	None

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

07.02.2019

1. Being aggrieved with the award dated 30.01.2014 passed in M.A.C.C. No. 32 of 2013 by the Additional Motor Accident Claims Tribunal (FTC), Bilaspur (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 22.10.2012 when Claimant was coming from Ratanpur to Bilaspur sitting as passenger in the offending vehicle- Tata-Magic bearing registration No. CG-10/F/9860, Respondent No.2 – Dinesh Banjare, driver of the offending vehicle, driving the said vehicle in a rash and negligent manner dashed the said vehicle against a tree, as a result thereof Claimant sustained grievous injuries.

3. The learned Tribunal, in the impugned award, has awarded a compensation of Rs.58,000 in favour of the Claimant with interest @ 6% per annum from the date of filing of the application till realization and fastened the liability upon the Appellant/Insurance Company along with driver and owner/Respondents 2 & 3 jointly and severally to pay compensation.
4. Learned counsel for the Appellant/Insurance Company raised sole issue regarding breach of policy conditions that the driver of the offending vehicle was not having valid and effective driving licence to ply the said vehicle because he was holding a licence to drive a light motor vehicle, not the transport vehicle.
5. No counter appeal has been filed by the Respondents as has been submitted by the learned counsel for the Appellant.
6. Heard the learned counsel appearing for the Appellant/Insurance Company 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. From perusal of para-22 of the impugned award shows that as per document -Ex.-D/3, U.L.W. and G.V.W. of the offending vehicle is 1000 Kg & 1600 Kg respectively and it is not in dispute that the driver was having a valid and effective licence to drive the light motor vehicle. Thus, 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 a valid and effective driving licence and even in the absence of any endorsement as such in his driving licence authorizing him to drive the said transport vehicle, he was competent to drive the offending vehicle i.e. transport vehicle.

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