

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 895 of 2013**

1. Dilip Kumar Pandey S/o Late Ram Kishore Pandey Aged About 43 Years, Occupation Railway Department, R/o Subhash Nagar, P.S. Dehat, Ambikapur, Distt. Surguja (C.G.).

---- Appellant/Claimant**Versus**

1. Anil Kumar Soni S/o Gopal Soni Aged About 20 Years, Occupation Driver, R/o Shanti Nagar, Bishrampur, P.S. And Tah. Bishrampur, Distt. Surguja (C.G.).
- 2.(a) Vyasmuni S/o Late Dukhit Ram R/o J.M.Q. Colony, Behind Water Tank, Bishrampur, P.S. Bishrampur, Tah. Surajpur, Distt. Surajpur (C.G.).
- 2.(b) Vasisth Ram S/o Late Dukhiram R/o J.M.Q. Colony, Behind Water Tank, Bishrampur, P.S. Bishrampur, Tah. Surajpur, Distt. Surajpur (C.G.), At Present R/o Arang, Post- Basdiha, P.S. Dirana, Distt. Rohtas, Sasaram (Bihar).
- 2.(c) Tarawati Wd/o Late Dukhit Ram Aged About 60 Years R/o Bishrampur, P.S. Bishrampur, Distt. Surajpur (C.G.).
3. Branch Manager, The Oriental Insurance Co. Ltd., Branch Office, Manendragarh Road, Near Ambedkar Chowk, Nagar Ambikapur, Distt. Surguja (C.G.).

---- Respondents

For Appellant	:	Miss Rashul Bhawnani, Advocate.
For Respondent No. 3	:	Shri H.P Agrawal, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****16/04/2019**

- 1) This appeal is by the claimant injured under Section 173 of the Motor Vehicles Act, 1988 for seeking enhancement against the award dated 29/06/2013 passed by Third Additional Motor Accident Claims Tribunal Ambikapur, District Sarguja (C.G.) in

Claim Case No. 07/2013 awarding total compensation of Rs. 1,40,315/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants No. 2(a) to 2(c) jointly and severally being legal heirs of owner of offending vehicle Dukhit Ram who died during pendency of claim case in March, 2010.

- 2) As per averments of claim petition, Dilip Kumar Pandey claimant injured, aged about 43 years, earning Rs. 14681/- per month as Khalasi in Railway Department, was sitting as a pillion rider in Motorcycle Hero Honda ridden by Sukumar Singh @ Shiv Kumar Singh, they were going towards Railway Colony Ajirma from Ajabnagar on 19/02/2009. On the same day at around 08:15 PM Non-applicant No. 1/Anil Kumar Soni, who was driving the offending vehicle Jeep bearing No. CG15 ZD 1214 dashed Sukumar Singh @ Shiv Kumar Singh by rash and negligent driving. Consequently, claimant/Dilip Kumar Pandey sustained injury in head, leg and other parts of the body. Offending vehicle was owned by Dukhit Ram and insured with non-applicant No. 3/United India Insurance Co. Ltd. At the time of accident. Since, during pendency of claim petition before the Tribunal, Dukhit Ram died, his legal heirs were brought on record as non-applicant Nos. 2(a), 2(b) & 2(c).
- 3) On claim petition being filed by the claimant under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.
- 4) Learned counsel for the appellant/claimant submits that at the time of accident non-applicant No. 1 Anil Kumar was having license for light motor vehicle which was valid from 15/03/2004 to 14/03/2024 vide Ex.- D-2. A per Ex. D-3 i.e. certificate of registration particulars of the offending vehicle, the offending vehicle is also light motor vehicle and its unladen weight is 1225 KG. Therefore, in view of decision of Hon'ble Supreme Court in the matter of ***Mukund Dewangan Vs. Oriental Insurance***

Company Limited reported in (2017) 14 SCC 663, non-applicant No. 1 having a valid and effective driving license on the date of accident to drive the offending vehicle and the Tribunal was not justified in exonerating Insurance Company on the ground of breach of policy conditions. He further submits that the some amount should be granted to the claimant/injured towards future treatment, looking to the gravity of injury suffered by him, medical bill and discharge ticket i.e. Ex. P-11.

- 5) On the other hand, learned counsel for the respondent/insurance company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.
- 6) Heard learned counsel for the parties and perused the material available on record.
- 7) No counter appeal has been filed by the respondents as submitted by counsel for the parties.
- 8) So far as liability is concerned, as per Ex. D-2, which is evident that non-applicant no. 1 was having a license for Light Motor Vehicle which was valid from 15/03/2004 to 14/03/2024 and the unladen weight of vehicle in question is 1225 KG.

The issue involved in this case has already been considered by the Hon'ble Supreme Court in the matter of Mukund Dewangan (supra) whether a driver who is having a license 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 of 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 license 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 Statutes – 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)”

- 9) 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 license and even in absence of any endorsement as such in his driving license authorizing him to drive the offending vehicle, it cannot be held that he was not possessing valid and effective driving license at the relevant time.
- 10) In this view of the matter, the Insurance Company is held liable jointly and severally alongwith non-applicant No. 1/Driver and Non-applicant 2(a) to 2(c) for paying compensation to the claimant.
- 11) Considering the facts and circumstances of the case the gravity of injury suffered by the claimant is entitled for a sum of Rs. 30,000/- towards future treatment.
- 12) In the result, the appeal is allowed in part with modification in the impugned award to the above extent that the claimant is entitled for additional compensation of Rs. 30,000/- with interest @ 6% as awarded by the Tribunal and the liability of paying the entire compensation shall be of non-applicant No.3/Insurance Company jointly and severally alongwith non-applicant No. 1 and Non-applicant 2(a) to 2(c). However, rest of the conditions of the impugned award shall remain intact.

-Sd/-
(Gautam Chourdiya)
Judge