

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 703 of 2014**

- The New India Assurance Co. Ltd. Through the Manager Madina Building Jail Road Raipur District- Raipur, (C.G.).

----Appellant**Versus**

1. Ku. Rinki Soni @ Gitika Soni, aged about 8 years, D/o Rajendra Kumar Soni. Through Natural Guardian father Rajendra Kumar Soni, S/o Guruwaru Soni, aged about 38 years, R/o Utkal Nagar, Near New Akahwani, Civil Line, Tahsil & District- Raipur (C.G.).
2. Raju @ Rajaram Nishad S/o Shri Paltu Ram Nishad, R/o Shakti Nagar, Near Nal Ghar, Near Shakti Mata Mandir, Police Station Pandri Mova, District Raipur (C.G.).
3. Chandra Shekhar Singh S/o Takhatraj Singh, R/o New Balaji Metador Transport Co. Pachpedi Naka, Raipur (C.G.).

---- Respondents

For Appellant	: Shri Mahavir Bhatnagar, Advocate.
For Respondents	: None.

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

10.01.2019

1. This is an appeal by the Insurance Company against the award dated 29.03.2014, passed by the 3rd Additional Motor Accident Claims Tribunal, Raipur, District Raipur, C.G. in claim case no. 273/2011 whereby the Tribunal in a injury case has awarded a total compensation of Rs. 1,67,048/- with interest at the rate of 6% p.a. from the date of

application till its realization, fastening the liability on the Non-applicants jointly and severely.

2. As per claim petition, on 23.04.2010 injured -Rinkey Soni, (adolescent), caused injuries in the motor vehicular accident due to rash and negligent driving of vehicle(Mazada) bearing registration no. CG04JC/6618 by non-applicant No.1, owned by non-applicant no.2 and insured with non-applicant no.3.
3. On claim petition being filed by the claimant under Section 166 of the Motor Vehicle Act the learned Tribunal considering the evidence led by both the parties awarded compensation as mentioned above.
4. Learned counsel for the appellant submits 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 LMV for non transport vehicle.
5. Heard learned counsel for the appellant and perused the material available on record including the impugned award.
6. As regards the competence of the driver to drive the vehicle in question, the issue raised by the insurance company has already been settled by the Hon'ble Supreme Court in the matter of **Mukund Dewangan Vs. Oriental Insurance Company Limited** reported in **(2017) 14 SCC 663** that a person holding LMV (non-transport) is competent to drive

the transport vehicle even without there being any endorsement to this effect in the driving licence if the unladen weight of the vehicle does not exceed 7,500 Kg. The relevant part of the aforesaid decision is being reproduced 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 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 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)”

7. In view of above, this Court finds no substance in the argument of the insurance company that the driver was not having a valid and effective driving licence to drive the vehicle in question on the date of accident as the offending vehicle was admittedly a Light Goods Vehicle unladen weight of 3160 kg as per certificate issued by Regional Transport Authority vide Ex.D/2R and as such, it falls in the category of LMV and that the driver was having a valid and effective licence to drive LMV.

8. On the basis of aforesaid discussions, this Court finds that the Tribunal was fully justified in passing the impugned award and fastening the liability on the appellant/insurance company. Accordingly, the appeal being without any substance deserves to be dismissed at the admission stage itself and is, accordingly, dismissed.

Sd/-
(Gautam Chourdiya)
Judge