

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1206 of 2014**

- Branch Manager, Shriram General Insurance Company Limited
G.E. Road, Raipur C.G. (Insurer of Minidor No. CG 04 JA 1571)

---- Appellant**Versus**

1. Meghnath Satnmai S/o Late Baratu Satnami Aged About 52 Years
 2. Pancho Bai W/o Meghnath Satnami Aged About 45 Years
 3. Ku. Gayatri, Aged About 5 Years
 4. Ashwani Kumar, Aged About 7 Years
- No. 3 & 4 are minor through natural guardian father Meghnath Satnami. R/o Village Chirko, Post and Tehsil Patwara, Police Station Tumgaon, Tahsil and Distt. Mahasamund (CG)
5. Krishna Kumar Chandrakar S/o Narayan Chandrakar Aged About 40 Years R/o Village Singhanpur, P.S. Pithora, Distt. Mahasamund, Chhattisgarh

---- Respondents

For Appellant	:	Shri Deepak Gupta, Advocate.
For Respondent No.1 to 4	:	Shri Shivendu Pandya, Advocate.
For Respondent No.5	:	None though served.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****20/02/2019**

This appeal is by the insurance company under Section 173 of the Motor Vehicles Act, 1988 against the award 25th August, 2014 passed by Chief Motor Accident Claims Tribunal, Raipur (CG) in Claim Case No.125/2011 awarding total compensation of 6.93 lacs with interest @ 9% per annum from the date of application till realization, fastening liability on the non-applicant No.2/insurance company jointly and severally along with non-applicant No.1/driver & owner.

02. As per claim petition, on 8.4.2011, Fagdas Satnami, aged about 21 years, earning Rs.6,000/- per month as a mechanic, was dashed by vehicle Minidor bearing No. CG 04 JA 1571, which was being driven in a rash and negligent manner by non-applicant No.1, who is also owner of the said vehicle. At the time of accident, the vehicle was duly insured with non-applicant No.2.

03. On claim petition being filed by the claimants, parents, brother and sister of the deceased, under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by the parties passed an award as mentioned above.

04. Learned counsel for the appellant/insurance company submits that on the date of accident, non-applicant No.1 was not having a valid and effective driving licence as there is no endorsement in his licence authorizing him to drive the offending vehicle which is a transport vehicle, and therefore, the Tribunal has wrongly fastened liability on the insurance company. Alternatively, he submits that the amount awarded by the Tribunal is very much on the higher side and needs to be reduced suitably.

05. On the other hand, learned counsel for the respondents/claimants supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly fastened liability on the insurance company and awarded just and proper compensation which needs no interference by this Court.

06. Heard learned counsel for the parties and perused the material available on record.

07. As per Ex.D/1C i.e. certificate of registration, it is evident that gross weight of the offending vehicle is 1550 and its unladen weight is 815 kg. As per Ex.D/4 i.e. driving licence of non-applicant No.1, he was having a licence to drive LMV which was valid till 31.1.2019. The aforesaid documents are not in dispute.

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 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)”

08. 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 absence of any endorsement as such in his driving licence authorizing him to drive the offending vehicle, it cannot be held that he was not possessing valid and effective driving licence at the relevant time.

09. So far as quantum of compensation is concerned, the Tribunal in absence of there being any specific evidence as to income of the deceased, considered his notional income as Rs.3000/- as per minimum wages prevalent at the relevant time and further, considering the age of the deceased, the dependency and other relevant aspects of the matter, has rightly assessed the compensation, which needs no interference by this Court.

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

Sd/

(Gautam Chourdiya)

Judge