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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 360 of 2014

- Deputy General Manager, South Eastern Coalfields Ltd., Manikpur Project, Korba, Add: O/o Deputy General Manager, Manikpur Project, Tehsil Manikpur, District Korba (C.G.)

---- Appellant/non-applicant No.2

Versus

1. Smt. Mousami Dutta W/o Late D.K. Dutta, aged about 46 years
2. Ms. Somi Dutta D/o Late D.K. Dutta, aged about 22 years
3. Ms. Saptami Dutta D/o Late D.K. Dutta, aged about 20 year
   All permanent R/o Shri H.C. Banerjee Quarter No. B-7 Jai Prakash Colony in front of Shiv Mandir Korba (C.G.)
   (Claimants)
4. The Branch Manager, United India Insurance Company Ltd., T.P. Nagar Korba (C.G.)
   (Insurer)/non-applicant No.3

---- Respondents

For Appellant	:	Shri R.K. Gupta, Advocate
For Respondents 1 to 3	:	Shri Vaibhav Goverdhan, Advocate
For Respondent No.4/ Insurance Company	:	Shri B.N. Nande, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

13.02.2019

1. This appeal has been preferred by the Appellant/non-applicant No.2 under Section 173 of the Motor Vehicles Act, 1988 against the award dated 09.01.2014 passed by the Additional Motor Accident Claims Tribunal (FTC), Korba (C.G.) in Claim Case No. 57/2013.

2. The facts of the case in brief are that on 02.04.1993 at 12:00 PM during his work deceased-D.K. Dutta alongwith his sub-ordinate Dozer Operator-Chandranath Shukla was going in connection with his work from one mines to another mines by the offending vehicle-Jeep bearing registration No. CPL-7102 which was being driven by non-applicant No. 1- Bir Singh (since died), owned by non-applicant No.2 and insured with non-applicant No.3, in a rash and negligent manner and he dashed the Jeep from goods-train at the time of crossing of railway track. Due to the said accident, both namely D.K. Dutta and Chandranath Shukla sustained grievous injuries and Dozer Operator - Chandranath Shukla died on the spot and thereafter D.K. Dutta died during treatment in the hospital on the same day.

3. As against the compensation of Rs.54,30,000/- claimed by Claimants/Respondents 1 to 3 by filing application under Section 166 of the Motor Vehicles Act, 1998 for the death of deceased-D.K. Dutta in the motor accident on 02.04.1993, the Tribunal awarded a total sum of Rs.9,29,000/- as compensation alongwith interest @ 6% per annum from the date of application till its realization. The Tribunal has also directed that on account of death of non-applicant No. 1, Appellant/non-applicant No.2 is liable for payment of compensation to the Claimants/Respondents 1 to 3 and on account of breach of policy conditions, exonerated the Insurance Company/non-applicant No.3 to pay compensation.

4. As submitted by the parties, no counter appeal has been filed by the Respondents.

5. Learned counsel for the Appellant submits that at the time of accident, the offending vehicle was being driven by Bir Singh and he has a valid and effective licence. As per statement of NAW-2 – Umesh Tripathi examined by non-applicant No.3, in para-4, admitted this fact as per Ex.-D/3 – driving licence of Bir Singh for light motor vehicle was issued on 11.07.1980 and valid upto on 12.02.2000, therefore, on the date of accident, the offending vehicle being light motor vehicle, driver had a valid and effective licence and it is not a case of heavy goods vehicle. He further submits that as per Section 14 (2) of the Motor Vehicles Act, the driver was having a valid and effective licence as the vehicle in question is light motor vehicle and not transport vehicle. He also submits that the vehicle involved in this accident is light motor vehicle Jeep bearing registration No. CPL – 7102 and the learned Tribunal wrongly exonerated the Insurance Company on the ground that time to time renewal for three years is mentioned in Ex.-D/2 report given by investigation officer. He further submits that as per Ex.-D/3 driving licence issued by the R.T.O., Bilaspur for the purpose of heavy goods vehicle. Therefore, the Insurance Company is liable to indemnify the owner by satisfying the award in favour of the Claimants.

6. Learned counsel for the Respondent No.4/Insurance Company submits that no any specific date is mentioned in light motor vehicle driving licence. If licence issued for heavy goods vehicle and light motor vehicle jointly, the renewal is to be required for a period of three years, therefore, the Tribunal has rightly exonerated the Insurance Company. Reliance has been placed on the decision of the Hon'ble Supreme Court in the matter of ***Ram Babu Tiwari Vs. United Indian Insurance Co. Ltd., Laws (SC) 2008 8 142***.

7. Section 10 of the Motor Vehicles Act deals with forms and contents of licences to drive and Section 14 speaks about currency of licences to drive motor vehicles. Section 14 (2) of the Act reads under:

> "(2) A driving licence issued or renewed under this Act shall, –
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> (a) in the case of a licence to drive a transport vehicle, be effective for a period of three years:
>
> Provided that in the case of licence to drive a transport vehicle carrying goods of dangerous or hazardous nature be effective for a period of one year and renewal thereof shall be subject to the condition that the driver undergoes one day refresher course of the prescribed syllabus; and
>
> (b) in case of any other licence, –
>
> (i) if the person obtaining the licence, either originally or on renewal thereof, has not attained the age of fifty years on the date of issue or, as the case may be, renewal thereof, –
>
> (A) be effective for a period of twenty years from the date of such issue or renewal; or
>
> (B) until the date on which such person attains the age of fifty years,
>
> whichever is earlier;
>
> (ii) if the person referred to in sub-clause (i), has attained the age

> of fifty years on the date of issue or as the case may be, renewal thereof, be effective, on payment of such fee as may be prescribed, for a period of five years from the date of such issue or renewal:
>
> Provided that every driving licence shall, notwithstanding its expiry under this sub-section continue to be effective for a period of thirty days from such expiry."

8. It is not disputed by the parties that the vehicle involved in accident is light motor vehicle Jeep bearing registration No. CPL – 7102 and as per documents & evidence adduced by the non-applicant No.3 itself proved this fact that light motor vehicle licence is issued in favour of driver- Bir Singh as per Ex.-D/3 and the report given by the investigating officer/surveyor as per Ex.-D/2 dated 13.11.1998.

9. NAW-2 – Umesh Tripathi examined by non-applicant No.3 has admitted this fact that light motor vehicle driving licence issued in favour of Bir Singh which was valid from 11.07.1980 till 12.02.2000. According to the statement of NAW-2 himself it is proved that at the time accident Bir Singh was having a valid light motor vehicle driving licence. As per Section 14 (2) of the Motor Vehicles Act, the licence was effective for the period of twenty years from the date of such issue or renewal. It is clearly shown that the light motor vehicle licence is issued for twenty years and vehicle being driven by Bir Singh, was not transport vehicle.

10. Learned counsel for Respondent No.4 relied on the judgment in the matter of *Ram Babu Tiwari* (supra) in which the original licence granted despite expiry remains valid for a period of 30 days from the date of expiry but in the present case the licence (Ex.-D/3) was valid for three years, therefore, the above judgment is not applicable and distinguishable in instant appeal.

11. When the matter is examined in its totality, in my opinion, the Tribunal has certainly fallen in error in exonerating Insurance Company/non-applicant No.3, Respondent No.4 herein, of its liability of payment of compensation and the same is not sustainable in the present case.

12. For the reasons mentioned hereinabove, the appeal is allowed. The award insofar as it relates to exoneration of Insurance Company/non-applicant No.3 of its liability of payment of compensation of Rs.9,29,000/- is set aside. Instead, it is held that Insurance Company/non-applicant No.3 is liable for payment of compensation to Respondents 1 to 3/Claimants. The award is modified to the above extent. Rest of the conditions of the award shall remain intact.

13. Non-applicant No.3/The United India Insurance Company Limited is granted two months' time for depositing the compensation amount alongwith interest @ 6% per annum from the date of application till its realization before concerned Claims Tribunal.

14. If any amount has been deposited by the Appellant and disbursed to the Claimants/Respondents 1 to 3, the Appellant is entitled to recover the same from Insurance Company/non-applicant No.3.

15. No order as to cost.

Sd/-
(Gautam Chourdiya)
Judge

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