

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Miscellaneous Appeal (Civil) No. 1281 of 2015**

- The Oriental Insurance Co. Ltd., Through its Divisional Office, 1st Floor, Rama Trade Centre, Near Bus Stand, Bilaspur, Civil & Revenue District Bilaspur (C.G.) PIN-495001

---- Appellant/Non-applicant No.3**Versus**

1. Subramaniyam Mudaliyar S/o Late S.M. Mudaliyar (Wrongly described as Subraniyam Mudaliyar), aged about 47 years, At Awasiya Parisar, Vidhan Sabha F-B, P.S. Vidhan Sabha, District Raipur (C.G.)

(Claimant)

2. Rajendra Kumar Kurre, S/o Phirantaram Kurre, R/o Vill./P.O. Boirdih, P.S. Palari, District Baloda Bazar, Bhatapara (C.G.)

(Driver - Non-applicant No.1)

3. Ram Kumar Kurre, S/o D. Prasad Kurre, R/o Vill./P.O. Telasi, P.S. Palari, District Baloda Bazar, Bhatapara (C.G.)

(Owner – Non-applicant No.2)**---- Respondents****Miscellaneous Appeal (Civil) No. 1266 of 2015**

- The Oriental Insurance Co. Ltd., Through its Divisional Office, 1st Floor, Rama Trade Centre, Near Bus Stand, Bilaspur, Civil & Revenue District Bilaspur (C.G.) PIN-495001

---- Appellant/Non-applicant No.3**Versus**

1. Raunak S/o Surendra Kumar Botham, aged about 17 years, Minor represented by father and natural guardian Surendra Botham, At Awasiya Parisar, Vidhan Sabha F-B, P.S. Vidhan Sabha, District Raipur (C.G.)

(Claimant)

2. Rajendra Kumar Kurre, S/o Phirantaram Kurre, R/o Vill./P.O. Boirdih, P.S. Palari, District Baloda Bazar, Bhatapara (C.G.)

(Driver - Non-applicant No.1)

3. Ram Kumar Kurre, S/o D. Prasad Kurre, R/o Vill./P.O. Telasi, P.S. Palari, District Baloda Bazar, Bhatapara (C.G.)

(Owner – Non-applicant No.2)**---- Respondents****And****Miscellaneous Appeal (Civil) No. 1267 of 2015**

- The Oriental Insurance Co. Ltd., Through its Divisional Office, 1st Floor, Rama Trade Centre, Near Bus Stand, Bilaspur, Civil & Revenue District Bilaspur (C.G.) PIN-495001

---- Appellant/Non-applicant No.3

Versus

1. Shishir Mudaliyar, S/o Shri Subramaniyam Mudaliyar, aged about 15 years, represented through father and natural guardian Shri Subramaniyam Mudaliyar, At Awasiya Parisar, Vidhan Sabha F-8, P.S. Vidhan Sabha, District Raipur (C.G.)

(Claimant)

2. Rajendra Kumar Kurre, S/o Phirantaram Kurre, R/o Vill./P.O. Boirdih, P.S. Palari, District Baloda Bazar, Bhatapara (C.G.)

(Driver - Non-applicant No.1)

3. Ram Kumar Kurre, S/o Phirantaram Kurre, R/o Vill./P.O. Boirdih, P.S. Palari, District Baloda Bazar, Bhatapara (C.G.)

(Owner – Non-applicant No.2)**---- Respondents**

For Appellant	:	Shri R.N. Pusty, Advocate
For Respondents 1	:	None
For Respondents 2 & 3	:	Rakesh Dubey, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J**Judgment on Board****11.02.2019**

1. As all these above appeals arise out of the same accident occurred on 22.10.2012 involving the same vehicle Bus bearing registration No. CG-4/E/1311 (hereinafter referred to as "offending vehicle"), they are being disposed of by this common judgment.

2. All these appeals arise out of separate awards dated 07.07.2015 passed by the Seventh Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Claim Cases No. 4 of 2014 [M.A.(C) No. 1281 of 2015]; 3 of 2014 [M.A.(C) No. 1266 of 2015] and 5 of 2014 [M.A.(C) No. 1267 of 2015] awarding compensation in favour of the Claimants of Rs.59,849/-; Rs.65,202/- and Rs.22,046/- with interest @ 6% per annum from the date of claim applications till realization respectively fastening liability on the Insurance Company/non-applicant No.3 along with non-applicant Nos. No.1 & 2 jointly and severally.

3. Facts of the case, in brief, are that on 22.10.2012 at about 04:00 p.m. due to rash and negligent driving of the offending vehicle by Respondent No.2/Non-applicant No.1, owned by non-applicant No. 2 and insured with non-applicant No.3, the said vehicle dashed the Scooty bearing registration No. CG-04/CZ/0564 of the Claimants. Claimant- Subramaniyam Mudaliyar was riding the Scooty and his

sons/Claimants were the pillion rider of the said Scooty. Due to the accident the Claimants sustained injuries.

4. Learned counsel for the Appellant submits that the driver of the offending vehicle was not having valid and effective driving licence to ply the Bus/offending vehicle because he was holding a licence to drive a light motor vehicle and the vehicle was insured as commercial vehicle. As such, on account of there being breach of policy conditions, the Tribunal was not justified in fastening liability on the Insurance Company.

5. On the other hand, learned counsel for Respondents 2 & 3 opposed the submission on behalf of the Appellant and supports the impugned award passed by the Tribunal.

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

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 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)."

8. From perusal of the R.C. Book of the offending vehicle (Ex.-D-2-C), it is apparent that U.L.W. is 2250 Kg and G.V.W. is 5700 Kg of the offending vehicle as also at the time of accident, the offending vehicle was insured 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 (Ex.-D-5-(C) and even in the absence of any endorsement as such in his driving licence authorizing him to drive the said bus carrying passenger, he is competent to drive a light motor vehicle (transport vehicle). Undisputedly, as observed herein above, the offending vehicle in question is a light motor vehicle as per the provisions prescribed under Section 2(21) of the Motor Vehicles Act as its unladen weight does not exceed 7500 Kg. Therefore, merely for want of endorsement in this regard in the driving licence authorizing the driver to drive the vehicle in question, it cannot be said that he was not possessing the valid and effective driving licence to drive the said offending vehicle, as held by the learned Claims Tribunal. This Court finds no illegality or infirmity in the findings recorded by the Tribunal holding the Insurance Company liable for satisfying the award jointly and severally along with driver and owner of the offending vehicle.

9. In the result, the appeals being without any substance are liable to be dismissed and are accordingly dismissed.

10. No order as to costs.

11. Photocopy of this judgment be kept in M.A.(C) No. 1266 of 2015 and M.A.(C) No. 1267 of 2015.

Sd/-
(Gautam Chourdiya)
Judge