

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.A. (C) No. 04 of 2019**

- Branch Manager, The Oriental Insurance Co. Ltd. Near Railway Station, Rajnandgaon, Distt. Rajnandgaon (C.G.)

**----Appellant/Respondent****Versus**

1. Smt. Rukhmain Bai W/o Lakhan Sahu aged about 55 years, Cast tali, Resident gram Parsahi Thana Dongargarh Tehsil Khairagarh, District- Rajnandgaon (C.G.).
2. Som Lal Verma S/o Kunwar Singh Verma aged about 40 years  
(Driver of the Tractor No. C.G.07.D.9331 & Trolley No. C.G.07D 9332)
3. Dhirpal Verma S/o Kunwar Singh Verma Aged about 50 year (died)
- 3.(A) Meena Bai W/o late Dheerpal Verma aged about 55 years,  
(B) Hara Ram Verma S/o late Dheerpal verma aged about 25 years,  
(C) Ravi Kumar Verma S/o late Dheerpal Verma aged about 22 years  
All resident gram Bijnapur Tehsil & Thana Dongargarh Distt.- Rajnandgaon  
(owner of the Tractor No. C.G.07.D.9332)

**---- Respondents**


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| For Appellant   | : | Shri Deepak Gupta, Advocate. |
| For Respondents | : | None.                        |

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**Hon'ble Shri Justice Gautam Chourdiya****Order On Board****24/01/2019**

- (1) Heard on IA No. 1, application for condonation of delay of 66 days in filing the appeal.
- (2) For the reason mentioned in the application, which is duly supported by the affidavit, the same is allowed and delay in filing the MAC is hereby condoned.
- (3) Heard on admission.

(4) This is insurer's appeal against the award dated 28.06.2018 passed by the Additional Judge, Dongargarh of First Additional Motor Accident Claims Tribunal, Rajnandgaon, C.G. in Claim Case No. 10/2017 awarding total compensation of Rs.1,53,438/- along with interest @ 6 per annum from the date of application till realization, fastening liability on the Insurance Company.

(5) As per averments in the claim petition when on 12.12.2011 claimant along with his brother went to village Lamaninebhata in the motor cycle bearing registration No. C.G.08 A 2428 for treatment of his niece, at that time Non-applicant No. 1/respondent No. 2 while driving the Tractor bearing registration No. C.G. 07 D. 9331 & Trolley bearing registration No. CG 07 D 9332 (henceforth "offending vehicle") rashly & negligently dashed the motorcycle, as a result thereof, claimant suffered grievous injuries and his left leg was also fractured.

(6) On claim petition being filed by the claimant the Tribunal, considering the evidence led by the parties, passed an award as mentioned above.

(7) Learned counsel for the appellant/Insurance Company submits that the Tribunal was not justified in fastening the liability on the insurance company as respondent No. 2/driver did not have valid and effective licence to drive the offending vehicle. On the date of accident, respondent No. 2 was holding learner's license to drive light motor vehicle and the offending vehicle was being driven in violation of provisions of Central Motor Vehicle Rules, 1989 and, therefore, the Insurance Company may be exonerated from its liability to pay compensation to the claimant.

(8) Heard learned counsel for the appellant and perused the impugned award as also the documents annexed with this appeal.

(9) As regards the issue of learner's licence is concerned, the Hon'ble Supreme Court in the matter of ***National Insurance Co. Ltd. Vs. Swaran Singh and***

*others*<sup>1</sup>, (2004) 3 SCC 297 while dealing with the said issue observed as under:-

“93. The Motor Vehicles Act, 1998 provides for grant of learner's licence.

[See Section 4(3), Section 7(2), Section 10(3) and Section 14]. A learner's licence is, thus, also a licence within the meaning of the provisions of the said Act. It cannot, therefore, be said that a vehicle when being driven by a learner subject to the conditions mentioned in the licence, he would not be a person who is not duly licensed resulting in conferring a right on the insurer to avoid the claim of the third party. It cannot be said that a person holding a learner's licence is not entitled to drive the vehicle. Even if there exists a condition in the contract of insurance that the vehicle cannot be driven by a person holding a learner's licence, the same would run counter to the provisions of Section 149(2) of the said Act.

94. The provisions contained in the said Act provide also for grant of driving licence which is otherwise a learner's licence. Section 3(2) and 6 of the Act provides for the restriction in the matter of grant of driving licence, Section 7 deals with such restrictions on granting of learner's licence. Section 8 and 9 provide for the manner and conditions for grant of driving licence. Section 15 provides for renewal of driving licence. Learner's licences are granted under the rules framed by the Central Government or the State Governments in exercise of their rule making power. Conditions are attached to the learner's licences granted in terms of the statute. A person holding learner's licence would, thus, also come within the purview of “duly licensed” as such a licence is also granted in terms of the provisions of the Act and the rules framed thereunder. It is now a well-settled principle of law that rules validly framed become part of the statute. Such rules are, therefore, required to be read as a part of main enactment. It is also well-settled principle of law that for the interpretation of statute an attempt must be made to give effect to all provisions under the rule. No provision should be considered as surplusage.”

10. In the instant case, as per paragraph 19 of the award, Shri Punit Kumar Dewangan (AW-1), Administrative Officer of the Insurance Company has admitted this fact that driver of the offending vehicle was having learner licence on the date of accident.

11. The Tribunal in para 23 of the award elaborately discussed the issue of learner licence in light of decision in the matter of **United India Insurance Company Limited Vs. Raimun & Anr. 2014(1)CGLJ 324** and found that there was no breach of policy conditions entitling the Insurance Company of its exoneration.

12. Thus, in view of principles of law laid down in **Swaran Singh & Raimun & Anr.** (supra) and the evidence available on record, this Court finds no substance in the argument of counsel for the appellant that respondent No. 2 being holder of learner's licence was not competent to drive the offending vehicle.

13. In view of the aforesaid discussion, the appeal being without any

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1 (2004) 3 SCC 297

substance is liable to be dismissed and is accordingly dismissed at the motion stage itself.

Sd/-  
Gautam Chourdiya  
Judge

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