NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 06 of 2019

- Reliance General Insurance Company Limited, Through : Its Legal Officer, Reliance General Insurance Company Limited, 301-302, Corporate House, 169 RNT Marg, Opposite Jhabua Tower, Indore (M.P.)

---- Appellant

Versus

1. Keshav Prasad Kashyap S/o Late Chamruram Kashyap, aged 55 years,

2. Smt. Jabbobai Kashyap W/o Shri Keshav Prasad Kashyap, aged 50 years,

3. Ku. Soniya D/o Shri Keshav Prasad Kashyap, aged 12 years (Minor) Through natural guardian respondent No. 1 Keshav Prasad Kashyap

   All are by caste Madiya, R/o Mitkupara, Village Kodenar, P.S. Kodenar, District Bastar (C.G.)(**Claimants**)

4. Masoram Poyam S/o Shri Bonjaram Poyam, aged 35 years R/o village Lohrapara, Village & Post Kilepal, P.S. Kodenar, District Bastar (C.G.) (**Owner**)

---- Respondents

For Appellant	: Shri Saurabh Sharma, Advocate alongwith Shri A. L. Singroul, Advocate.
For Respondent Nos 1 to 3.	: Shri Praveen Tulsyan, Advocate.
For Respondent Nos. 4	: Shri Praveen Dhurandhar, Advocate

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

08.05.2019

This appeal is by the Insurance Company against the award dated 28/07/2018, passed by Second Additional Motor Accident Claims Tribunal, Jagdalpur, District Bastar (C.G.) in Claim Case No. 59/2017 awarding total compensation of Rs. 6,64,674/- alongwith interest @ 9% per annum from the date of filing of claim petition, till its actual payment, fastening liability on the non-applicants jointly and severely.

02. Briefly stated facts of the case when on 20.06.2016 at about 9.30 a.m. deceased Ram Kasyap was driving tractor bearing registration No. CG 17K/4581 for the purpose of ploughing, the said tractor turned turtle, as a result thereof, Ram Kashyap sustained grievous injuries same the field turned-turtle due to which Ram Kasyap died on account of the injuries sustained by him in the said accident. The vehicle is owned by non-applicant No. 1 and insured with non-applicant No. 2.

03. On claim petition being filed by the claimants, who are unfortunate parents and sister of deceased Ram Kashyap, under Section 163-A of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

04. Learned counsel for the appellant/Insurance Company submit that claim petition under Section 163-A of the MV Act itself is not maintainable as no other vehicle is involved in the accident and for own negligence, no claim is maintainable. He further submits as per second Schedule appended to Section 163-A of MV Act, notional income of deceased would be Rs. 15,000/- and not Rs. 40,000/- as assessed by the Tribunal while computing the amount of compensation payable to the claimants. He also submits that deceased was not having valid and effective driving licence at the time of accident and, therefore, Claims Tribunal has erred in fastening the liability of payment of compensation upon the appellant/Insurance Company.

05. On the other hand, learned counsel for respondents supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.

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

07. It is not disputed by both the parties that deceased died due to the accident occurred on 20.06.2016; and the Claims Tribunal has

fastened the liability of payment of compensation upon the appellant/Insurance Company.

08. As regards the issue of driving licence is concerned, as per driving licence (Ex. A/9) of the deceased, deceased was having valid & effective driving licence to drive motorcycle and Light Motor Vehicle and its validity from 25.01.2010 to 24.01.2019 and, therefore, it has not been established that at the relevant point of time, the deceased did not have valid & effective driving licence.

09. In order to ascertain the fact that as to whether the driver of the offending vehicle possessed the valid driving license or not, I examined the alleged driving license and perusal of it would show that he was authorized to drive the light motor vehicle. The vehicle in question is, therefore, a “light motor vehicle” as defined under Section 2(21) of the Act. It is true that there is no endorsement in the alleged driving license authorizing the driver of the offending vehicle to drive the offending vehicle, but, undisputedly as observed herein above that the vehicle in question is a light motor vehicle as per the provision prescribed under Section 2(21) of the Act as its unladen weight does not exceed 7500 kg. Therefore, merely for want of endorsement in this regard in the alleged driving license authorizing the driver of the offending vehicle to drive the said tractor, it cannot be said that he was not possessing the valid and effective driving license to drive the said offending vehicle, as held by the learned Claims Tribunal.

10. At this juncture, the principles laid down in *“Mukund Dewangan Vs. Oriental Insurance Company Limited”* (supra) is to be noted as the question involved herein, as to whether a driver who is having a license to drive the “light motor vehicle” and who is driving the “transport

vehicle" of that class in absence of such an endorsement, was considered 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)"

11. By applying the aforesaid principles to the case in hand, it is clear that the driver of the offending vehicle was holding the valid and effective driving license and even in absence of any endorsement as such in his driving license authorizing him to drive the said offending vehicle, it cannot be held that he was not possessing the valid and effective driving license at the relevant time. Thus, the Tribunal is absolutely justified in fastening the liability of payment of compensation upon the appellant/Insurance Company.

12. So far as quantum of compensation awarded to the claimants are concerned, the Tribunal, in its discretion, awarded a total sum of Rs. 6,64,674/- as compensation in favour of claimants, which in the facts and circumstances of the case cannot be said to be on higher

side. The multiplier of 17 is rightly applied by the Tribunal in view of the Apex Court Judgment in the Matter of ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121.*** Looking to the nature of job and age the income of the deceased considered by the Tribunal as Rs. 40,000/- pa is just & proper as per minimum wage prevailing at the relevant time. Consquently, the above amount of compensation is examined in the context of above broad features of the case, I do not find any scope for interference in the amount of compensation awarded by the Tribunal.

13. For the reasons mentioned hereinabove, the appeal fails and is accordingly dismissed. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

Amita