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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 278 of 2014

{Arising out of order dated 18.12.2013 passed by learned Additional Motor Accident Claims Tribunal (F.T.C.), Bastar at Jagdalpur, Chhattisgarh in Claim Case No.154 of 2012}

Branch Manager, The United India Insurance Company Limited, Branch Office Jeypore, Koraput (Orrisa)

---- Appellant

Versus

1. Smt. P. Mamta W/o Late Santosh Rao Aged About 24 Years
2. Ku. Gudiya D/o Late Santosh Rao Aged About 5 Years Through Natural Guradian Mother i.e. respondent No.1
3. P. Apparao S/o P. Aditya Narayan Aged About 50 Years
4. Smt. P. Chandrawati W/o Apparao Aged About 46 Years
   All respondent No.1 to 4 R/o Adhawal (Semra), Tahsil Jagdalpur, District Bastar (Chhattisgarh)
5. Bhim Bahadur Adhikari S/o D. Adhikari Aged About 50 Years R/o Kumahar Para, Jagdalpur, District- Bastar (Chhattisgarh) (Owner of the vehicle)

---- Respondents

For Appellant	:	Shri H.B. Agrawal, Senior Advocate with Shri Pankaj Agrawal, Advocate.
For Respondents	:	None.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice

01.09.2020

1. Insurer of the Jeep bearing registration No.CG-17/T/0140 is the Appellant. Grievance is against the award passed by the Tribunal whereby the liability in respect of the driver of the Jeep has been

mulcted upon the Appellant-insurer despite the fact that the deceased driver did not have any valid authorization in his licence to driver a 'Transport Vehicle'.

2. The accident occurred on 28.08.2007 when the Jeep driven by the deceased, which belonged to the 2nd Respondent herein, went out of control due to the bursting of a tyre and hit against a tree standing on the side of the road, causing fatal injuries leading to death of the driver and also a passenger. This led to separate claim petitions filed before the Tribunal by the legal representatives/Claimants. Existence of a valid and effective policy was admitted from the part of the Appellant/insurer of the Jeep. However, it was contended that the deceased driver was not having valid and effective driving licence to drive the Jeep, which was a 'Commercial Vehicle' and hence, the Appellant-insurer had no liability to satisfy the claim.

3. Based on the pleadings and evidence brought on record, the Tribunal fixed the total compensation payable as Rs.7,75,000/-, which was directed to be satisfied by the Appellant-insurer with interest at the rate of 6% per annum from the date of filing of claim application till satisfaction, correctness of which is put to challenge in this appeal.

4. The only question to be considered is whether separate endorsement authorizing the driver to drive a 'Commercial Vehicle' is necessary, if the person concerned is in possession of a driving

licence to drive 'Light Motor Vehicle'. After referring to the relevant provisions of law, the Apex Court has made it clear in **Mukund Dewangan v. Oriental Insurance Company Limited** reported in **(2017) 14 SCC 663** that if the vehicle concerned is below 7500 kgs, the person holding a licence for driving 'Light Motor Vehicle', is also entitled to drive even if it is a 'Commercial Vehicle', without necessity to have any endorsement in this regard.

5. When the mater is taken up for consideration, Shri H.B. Agrawal, the learned senior counsel appearing for the Appellant-insurer submits that the very same accident had also resulted in death of a passenger, by name, Devki Bai, which was sought to be compensated by filing separate claim petition. Based on the materials brought on record, the Tribunal fixed the total compensation payable as Rs.2,41,000/-, which was directed to be satisfied with interest at the rate of 6% from the date of filing of claim application till realization, fastening the liability on the Appellant-insurer. This was sought to be challenged by the Appellant raising similar contentions as now raised in the present appeal, by way of MAC No.277 of 2014. The above appeal was finally heard and decided by a learned Judge of this Court as per judgment dated 07.02.2019, wherein it was observed that the vehicle concerned was having the gross weight of only 1775 kgs, as disclosed from Ex.P/1 and that the factual position in this regard was not disputed. It was accordingly held that the issue was covered by the judgment

rendered in **Mukund Dewangan** (supra) and hence, there was no need for any separate endorsement to drive the Jeep, which was a 'Commercial Vehicle'. It was also that, there was a valid 'Permit' for the vehicle as on the relevant date, as disclosed from Ex.P/13. In the said circumstance, interference was declined and the appeal preferred by the Appellant-insurer was dismissed, which is squarely applicable to the case in hand.

6. In view of above, nothing survives to be considered or adjudicated. The appeal stands dismissed as devoid of any merit.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

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