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**IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR  
BEFORE**

**HON'BLE SHRI JUSTICE ROOPESH CHANDRA VARSHNEY**

**ON THE 3<sup>rd</sup> OF JANUARY, 2024**

**MISC. APPEAL No. 509 of 2014**

**BETWEEN:-**

**THE NATIONAL INSURANCE CO.LTD. HAVING ITS  
DIVISIONAL OFFICE AT JAYENDRAGANJ, LASHKAR,  
GWALIOR THROUGH ITS SENIOR DIVISIONAL  
MANAGER (MADHYA PRADESH)**

**.....APPELLANT**

**(BY SHRI S.N.GAJENDRAGADKAR - ADVOCATE)**

**AND**

- 1. DHIRENDRA SINGH S/O BANWANT SINGH, AGED  
ABOUT 35 YEARS, R/O GRAM BADERA BUJURG,  
POLICE STATION DABRA, DISTRICT GWALIOR  
(MADHYA PRADESH)**
- 2. BANTY @ BANTI SINGH S/O CHHUTTAN SINGH  
SIKARWR, AGED ABOUT 24 YEARS, R/O  
A.B.ROAD,BANMORE,TEH. BANMORE,  
DISTT.MORENA, DRIVER (MADHYA PRADESH)**
- 3. SMT.MEENA BAI JAUDON W/O SHRI LAL SINGH  
JAUDON, R/O HNO.52, INDRA  
NAGAR,HAZIRA,DISTT.GWL. OWNER (MADHYA  
PRADESH)**

**.....RESPONDENTS**

**(RESPONDENT NO. 1 BY SMT. UMA KUSHWAH - ADVOCATE )**

*.....*  
*This appeal coming on for orders this day, the court passed the  
following:*

**ORDER**

Appellant/Insurance Company has filed this appeal under Section 173(1)  
of Motor Vehicles Act, 1988 assailing the impugned award dated 30/01/2014

passed by learned First Additional Motor Accident Claims Tribunal, Dabra, District Gwalior in Claim Case No. 31/2011; whereby, while allowing the claim of respondent No. 1, learned Claims Tribunal has directed the appellant-Insurance Company for making the payment of compensation amount to the tune of Rs. 82479/- to the injured/respondent No. 1 Dharendra Singh for the injuries received by him in road accident dated 15/12/2010.

Appellant/Insurance Company has assailed the impugned award on the ground that driver of the offending vehicle was not carrying valid driver licence and thus, the vehicle was being plied in breach of terms of insurance policy and therefore, Insurance Company cannot be held liable for payment of compensation amount.

At the outset, learned counsel for respondent No. 1/claimant produced copy of order dated 3/1/2023 passed in M.A.No. 1174/2013 by a coordinate Bench of this Court arising out of the same road accident dated 15/12/2010, in which Insurance Company though was exonerated from payment of compensation amount by the Claims Tribunal by its impugned award dated 24/2/2012 by Fifth Additional Motor Accident Claims Tribunal, Gwalior in Claim Case No. 28/2011; however, this Court after going through all the facts and circumstances of the case as well as decision of Apex Court in the case of **Shivaraj Vs. Rajendra (2018) 10 SCC 432, Manuara Khatun Vs. Rajesh Kumar Singh, 2017 ACJ 1031 and Shamanna and Anr. Vs. Divisional Manager, the Oriental Insurance Co. Ltd. and Ors., (2018) 9 SCC 650**, while maintaining the quantum of compensation, directed the Insurance Company to pay the compensation to the appellant therein, and reserved liberty in its favour to recover the same from the owner and driver of the vehicle.

Thus, in light of the aforesaid decision of coordinate Bench of this Court

in a matter arising out of same road accident from which this appeal arises, once the controversy has been resolved, this Court cannot take another view and this petition is also disposed of with direction to Insurance Company to make the payment of compensation amount to respondent No. 1 first and thereafter recover the same from the respondents No. 2 and 3 i.e. driver and owner of the offending vehicle. Let the payment of compensation amount be made within two weeks from today.

With the aforesaid direction appeal stands disposed of.

**(ROOPESH CHANDRA VARSHNEY)**  
**JUDGE**

JPS/-

