2026:CGHC:19222

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 372 of 2025

1 - Sipahi Lal S/o Kallu Ram Aged About 45 Years R/o Village Kelhari, Manwarai, Thana, Kelhari, Distt- Manendragarh- Chirmiri- Bharatpur (C.G.). (Appellant- Non Applicant No. 1 Owner And Drivier)

... Appellant

versus

1 - Smt. Mala Bai W/o Late Anil Singh Aged About 37 Years R/o Gram Haritola Ghutra, Thana Manendragarh, Tahsil Kelhari, Distt- Manendragarh- Chirmiri- Bharatpur (C.G.).

2 - Riya D/o Late Anil Singh Aged About 16 Years Minor, Through- Mother Smt. Mala Bai W/o Late Anil Singh Aged About 37 Years R/o Gram Haritola Ghutra, Thana Manendragarh, Tahsil Kelhari, Distt- Manendragarh- Chirmiri- Bharatpur (C.G.).

3 - Sunita Late Anil Singh Aged About 11 Years Minor, Through- Mother Smt. Mala Bai W/o Late Anil Singh Aged About 37 Years R/o Gram Haritola Ghutra, Thana Manendragarh, Tahsil Kelhari, Distt- Manendragarh- Chirmiri- Bharatpur (C.G.).

4 - Kuldeep S/o Late Anil Singh Minor, Through- Mother Smt. Mala Bai W/o Late Anil Singh Aged About 37 Years R/o Gram Haritola Ghutra, Thana Manendragarh, Tahsil Kelhari, Distt- Manendragarh- Chirmiri- Bharatpur (C.G.).

5 - Dipesh S/o Late Anil Singh Aged About 6 Years Minor, Through- Mother Smt. Mala Bai W/o Late Anil Singh Aged About 37 Years R/o Gram Haritola Ghutra, Thana Manendragarh, Tahsil Kelhari, Distt- Manendragarh- Chirmiri- Bharatpur (C.G.).

6 - Hiramtiya W/o Somaru Aged About 70 Years R/o Gram Haritola Ghutra, Thana Manendragarh, Tahsil Kelhari, Distt- Manendragarh- Chirmiri- Bharatpur (C.G.).

7 - Shriram General Insurance Through- Branch Manager Bilaspur, S8 And S 9, 2nd Floor, C.G. Plaza, Agrasen Chowk, Near Telephone Exchange, Bilaspur, Distt-. Bilaspur (C.G.)

... Respondent(s)

For Appellant	:	Mr. Parag Kotecha, Advocate
For Respondent Nos. 1 to 6	:	None
For Respondent No. 7	:	Ms. Santoshi Yadav, Advocate

Hon'ble Shri Justice Sachin Singh Rajput,

Order on Board

24.04.2026

1. This appeal under Section 173 of the Motor Vehicles Act (for short MV Act) has been preferred by the driver and owner of the offending vehicle (Bus) bearing Registration No. CG-16-A-1664 assailing the award dated 04.12.2024 passed by the learned Second Motor Accident Claims Tribunal, Manendragarh, District Koriya (for short learned Tribunal) in Claim Case No. 52/2022 (old) / 18/2023 (new).

2. An application under Section 166 of the MV Act was filed by respondent Nos. 1 to 6 (claimants) seeking compensation of Rs. 24,80,000/- on account of the death of the deceased/ Anil Singh in a motor accident that occurred on 12.09.2022 due to the rash and negligent driving of the offending bus. It was the case of the claimants that the deceased sustained grievous injuries in the said accident and succumbed to the same. An offence was registered against the appellant and upon completion of investigation, charge-sheet was filed. It was further pleaded that the deceased was aged about 40 years and earning Rs. 20,000/- per month.

3. The claim petition was contested by the appellants as well as respondent No. 7 (Insurance Company) by filing their respective written statements. The Insurance Company raised a specific defence alleging breach of the terms and conditions of the insurance policy contending that the driver of the offending vehicle was not holding a valid and effective driving licence and that the vehicle did not possess a valid permit and fitness certificate.

4. The learned Tribunal after framing the issues, decided the same in favour of the claimants (respondent Nos. 1 to 6). However, Issue No. 5 relating to violation of the

terms and conditions of the insurance policy was decided in favour of respondent No. 7 holding that the driver was not possessing a valid and effective driving licence and that the offending vehicle did not have a valid permit. Consequently, the Insurance Company was exonerated from liability and the compensation of Rs. 17,82,000/-, as determined by the Tribunal was fastened upon the appellant driver and owner.

5. Learned counsel for the appellants submits that the unladen weight of the offending vehicle was less than 7500 kg. He submits that the appellant was holding a valid non-transport driving licence up to the year 2026 and the extract issued by the RTO was duly placed on record. He further submits that the learned Tribunal erred in holding that the appellant was not possessing a valid and effective driving licence. With regard to the permit, it is submitted that a copy of the special permit valid from 12.09.2022 to 14.09.2022 along with the requisite fee receipt was placed on record, however, the same was erroneously disbelieved by the Tribunal on the ground that no evidence was led. It is thus prayed that the impugned award may be set aside.

6. Despite service, none appeared on behalf of respondent Nos. 1 to 6 (claimants).

7. Learned counsel for respondent No. 7 (Insurance Company) vehemently opposed the submissions and contended that the alleged permit was not produced in accordance with law and was placed on record at the fag end of the proceedings without being duly proved by examining any competent authority from the RTO. It is submitted that the learned Tribunal has rightly rejected the said document and there is no illegality or infirmity in the impugned award. Hence, the appeal deserves to be dismissed.

8. I have heard learned counsel for the parties, considered their rival submissions and perused the record.

9. The exoneration of the Insurance Company rests on two grounds: firstly, that the driver was not holding a valid and effective driving licence; and secondly, that the offending vehicle did not possess a valid permit. The learned Tribunal has recorded a categorical finding that the driver was holding a non-transport driving licence valid from 04.12.2016 to 30.06.2026 whereas the transport vehicle licence was valid from 13.01.2023 to 12.01.2028. The question that arises is whether the offending vehicle had an unladen weight exceeding 7500 kg which would determine the validity of the licence held by the appellant. However, neither party led cogent evidence in this regard. It is a settled position of law that a person holding a non-transport driving licence is competent to drive a transport vehicle whose unladen weight does not exceed 7500 kg.

10. The issue involved in this appeal with regard to exoneration is fully covered by the case of the judgment of the Hon'ble Supreme Court in the case of **Mukund Dewangan v. Oriental Insurance Co. Ltd. Reported (2017) 14 SCC 663** in para 60.2 are observed as under:-

> *"A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg would be a light motor vehicle and also motor car or tractor or a roadroller, "unladen weight" of which does not exceed 7500 kg and holder of a driving licence to drive class of "light motor vehicle" as provided in Section 10(2)(d) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg or a motor car or tractor or roadroller, the "unladen weight" of which does not exceed 7500 kg. That is to say, no separate endorsement on the licence is required to drive*

> *a transport vehicle of light motor vehicle class as enumerated above. A licence issued under Section 10(2)(d) continues to be valid after Amendment Act 54 of 1994 and 28-03-2001 in the form."*

11. As regards the permit, although a copy of the special permit was placed on record, the same was not duly proved. It is incumbent upon the Court/Tribunal to afford adequate opportunity to the parties to substantiate their respective claims, particularly when the consequence involves exoneration of the Insurance Company from liability. In the considered opinion of this Court, the matter requires reconsideration on the issue of alleged breach of the terms and conditions of the insurance policy. Accordingly, the impugned award deserves to be set aside and the matter is remitted to the learned Tribunal for fresh adjudication on the said issue.

12. The parties are directed to appear before the learned Tribunal on 24.06.2026. In the event respondent Nos. 1 to 6/claimants fail to appear on the said date, the Tribunal shall issue notice to them. The parties shall be at liberty to amend their pleadings, file additional documents, and lead evidence in support of their respective cases. Any amount already deposited shall not be recovered from the claimants and shall remain subject to the final outcome of the claim petition. It is further clarified that in the event the learned Tribunal finds the claimants entitled to higher compensation, it shall be at liberty to award the same without being influenced by any observations made in the earlier award or in this order.

13. Consequently, the appeal is partly allowed.

Sd/-

(Sachin Singh Rajput)
Judge

H.Ansari