

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Misc. Appeal No. 137/2020

Hdfc Ergo General Insurance Company Ltd., Jodhpur Office At
N.k. Tower, Chopasni Road, Jodhpur Through Its Authorized
Representative

-----Appellant

Versus

1. Dausingh S/o Vijay Singh, R/o Village Paladi , Tehsil Tatgarh ,
Distt. Ajmer.

2. Chartered Carriers Ltd., B-14, Vijay Shopping Centre,
Section 11, District Gandhinagar (Gujarat), Second Address :
Chartered House, Sarkhej Sanand Chokadi, Sarkhej,
Ahmedabad (Gujarat).

-----Respondent

For Appellant(s)	:	Mr. Jagdish Vyas (through VC)
For Respondent(s)	:	

HON'BLE MR. JUSTICE ARUN BHANSALI

Order

07/12/2020

It is submitted by learned counsel for the appellant-Insurance Company that the Tribunal by relying on judgment in *New India Assurance Company v. Prem Kunwar* : 2016(2) ACTC (Raj.) 938 has held that though the driver of the vehicle was not in possession of valid driving licence, the Insurance Company cannot escape its liability.

It is submitted that the judgment in the case of Prem Kunwar (supra), which, in-turn, has relied on judgment in *Oriental Insurance Company v. Hazira Begum* : 1995 ACJ 236, is contrary to the law laid down in *National Insurance Company v. Mastan & Anr.* : (2006)2 SCC 641 (Para 21) and *New India Assurance*

Company v. Harshadbhai Amrutbhai Modhiya & Anr. : AIR 2006 SC 1926 (Para 24).

In view of the submissions made, issue notice. Issue notice of the stay application also, returnable within a period of six weeks.

Notices when issued be given 'dasti' to learned counsel for the appellant.

In the meanwhile and till further orders, if the appellant-Insurance Company deposits a sum of Rs. 75,000/- with the Commissioner, Employees Compensation within a period of six weeks, the rest of the award against the appellant – Insurance Company only shall remain stayed.

The amount when deposited be paid to the claimant. The claimant would be free to execute the award against the employer.

(ARUN BHANSALI),J

62-Rmathur/-

