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SLP(C)No. 6934 OF 2004  
ITEM No.18

Court No.11

SECTION IVA  
A/N MATTER

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.6934/2004  
(From the judgement and order dated 20/04/2001 in MFA 1460/99  
of The HIGH COURT OF KARNATAKA AT BANGALORE)

MAHAMOODA & ORS.

Petitioner (s)

VERSUS

UNITED INDIA INSURANCE CO. LTD. & ORS.

Respondent (s)

(With prayer for interim relief)  
( With Appln(s). for c/delay in filing SLP )

Date : 20/09/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT  
HON'BLE MR. JUSTICE C.K. THAKKER

For Petitioner (s)Mr. R.S. Hegde, Adv.  
Mr. Chandra Prakash, Adv.  
Ms. Savitri Pandey, Adv.  
Mr. P.P. Singh,Adv.

For Respondent (s)Mr. K.L. Nandwani, Adv.  
Mr. Sameer Nandwani, Adv.  
Mr. Vinod Khanna, Adv.  
Mr. S.K. Sharma, Adv.  
Mr. Debasis Misra,Adv.

UPON hearing counsel the Court made the following  
O R D E R

Delay condoned.

Leave granted.

The appeal is allowed to the extent indicated in  
the signed order. No costs.

Sukhwinder (Vijay Aggarwal)  
Court Master

Signed order is placed on the file.  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6209 OF 2004  
(ARISING OUT OF SLP(C) 6934/2004)

MAHAMOODA & ORS.  
....  
Appellant (s)

Versus

UNITED INDIA INSURANCE CO.LTD.& ORS.

...

Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

Delay condoned.

We find that the High Court relied on a decision of this Court in New India Assurance Co.Ltd. vs. Mandar Madhav Tambe & Ors. (1996 ACJ 253). The issue related to the liability of an insurer when the offending vehicle is driven by a person holding a learner's licence. The High Court held that in view of the decision in Mandar's case (supra) the Insurance Co. has no liability, though the Motor Accidents Claims Tribunal, herein referred to as 'Tribunal' had fixed the liability on the Insurance Co. Correctness of the decision in Mandar's case (supra) came to be considered in National Insurance Co.Ltd. vs. Swarn Singh & Ors.(2004 (3) SCC 297). It was held that Mandar's case was decided on the peculiar facts of the case without taking note of the binding precedents. It was categorically held that even when the offending vehicle was driven by a person holding a learner's licence, the insurer's liability existed. This position has been clarified in paragraph 93 and 94 of the Judgment.

It appears that the awarded amount with interest was deposited in the High Court. There is no clear indication as to whether the Insurance Co. withdrew the amount after the Judgment of the High Court. In view of the fact that Mandar's case on which reliance was placed by the High Court has been distinguished in the subsequent decision in Swarn Singh's case (supra), the claimants shall be entitled to the amount which was originally deposited by the Insurance Company. They shall not be entitled to any interest for the subsequent period, in view of the fact that there was considerable delay in approaching this Court. The appeal is accordingly disposed of. We have condoned the delay in this appeal considering the peculiar facts and circumstances of the case. In case the Insurance Co. has withdrawn the amount which was deposited in the High Court earlier, the same shall be deposited within four weeks with the Tribunal so that claimants can withdraw it.

The appeal is accordingly allowed to the extent indicated. No costs.

.....J.  
(ARIJIT PASAYAT)

.....J.  
(C.K. THAKKER)

New Delhi,  
September 20, 2004.