

(2005) 07 MP CK 0039

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 1658 of 1997

United India Insurance Co. Ltd.

APPELLANT

Vs

Chandrasi and Others

RESPONDENT

Date of Decision : 06-07-2005

Acts Referred:

Motor Vehicles Act, 1988 — Section 10(3), 14, 149(2), 15, 173

Citation : (2006) 1 MPHT 159 : (2005) 4 MPLJ 35

Hon'ble Judges : U.C. Maheshwari, J

Bench : Single Bench

Advocate : N.S. Ruprah, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

U.C. Maheshwari, J.

This appeal u/s 173 of Motor Vehicle Act is directed against the award dated 14-9-1997 passed by Motor Accident Claims Tribunal, Chhindwara in Claim Case No. 2/94, whereby the claim petition of respondent Nos. 1 to 5 for Rs. 1,44,000/- allowed along with interest at rate of 12% per annum regarding death of Ritabi.

According to the facts of claim petition, on 8-2-1994 predecessor of respondent Nos. 1 to 5 namely Ritabi was dead due to accident caused by tractor bearing No. MKK 9143 driven by respondent No. 6 in rash and negligent manner while respondent No. 7 was registered owner of it and the same was insured with appellant. The accident was reported to police and on registering the offence respondent No. 6 was charge-sheeted. Legal representatives of the deceased filed a claim petition for Rs. 4,10,000/- against the respondent Nos. 6, 7 and appellant in which they have submitted their written statements, according to that respondent Nos. 6 and 7 pleaded that tractor was insured with appellant and therefore, liability can not be imposed against them while respondent No. 3 pleaded that respondent No. 6 was having only learning licence and it does not

fall under preview of duly licence, so because of this violation of insurance policy appellant was not liable to pay any compensation as prayed by the respondent Nos. 1 to 5.

On framing issues, parties led their evidence and on appreciation it learned Tribunal allowed the claim by holding that even on the basis of learning licence of respondent No. 6, respondent Nos. 6 and 7 including appellant are liable to pay the amount of compensation. Hence, this appeal is preferred at the instance of Insurance Company.

After hearing Counsel for appellant and on perusing the impugned award it is apparent that respondent No. 6 was having a learning licence on the date of incident.

Learned Counsel for the appellants vehemently submitted that the learning license does not cover under the clause of valid license. He further submitted that as per prescribed condition of mentioning sign of learning licence, i.e., word "L" in front and back side of the vehicle was also not followed and in view of this he assailed the award and submitted that in the absence of duly valid licence no liability can be imposed against the Insurance Company and prayed for setting aside the award upto the extent of appellant.

In view of aforesaid submission, only single question is involved in this appeal whether learning license is covered with the definition of duly driving licence or not ?

The aforesaid question was considered and decided by the Apex Court in the matter of National Insurance Co. Ltd. Vs. Swaran Singh and Others, , in which it is held as under :--

93. The Motor Vehicles Act, 1988 provides for grant of learner's licence. [See Section 4(3), Section 7(2), Section 10(3) and Section 14]. A learner's licence is, thus also a licence within the meaning of provisions of the said Act. It can not, therefore, be said that when a vehicle is being driven by a learner subject to the conditions mentioned in the licence, he would not be a person who is not "duly licensed" resulting in conferring a right on the insurer to avoid the claim of the third party. It can not be said that a person holding a learner's licence is not entitled to drive the vehicle. Even if there exists a condition in the contract of insurance that the vehicle can not be driven by a person holding a learner's licence, the same would run counter to the provisions of Section 149(2) of the said Act.

The provisions contained in the said Act provide also for grant of driving licence which is otherwise a learner's licence. Sections 3(2) and 6 of the Act provide for restriction in the matter of grant of driving licence. Section 7 deals with such restrictions on granting of learners licence. Sections 8 and 9 provide for the manner and conditions for grant of driving licence. Section 15 provides for renewal of driving licence. Learner's licences are granted under the Rules framed

by the Central Government or the State Government in exercise of their rule-making power. Conditions are attached to the learner's licences granted in terms of the statute. A person holding learners licence would, thus, also come within the preview of "duly licensed" as such a licence is also granted in terms of the provisions of the Act and the Rules framed thereunder. It is now a well-settled principle of law that rules validly framed become part of the statute. Such rules are, therefore, required to be read as a part of the main enactment. It is also a well settled principle of law that for the interpretation of statute an attempt must be made to give effect to all provisions under the rule. No provision should be considered as surplusage.

That any violation by respondent No. 6 regarding rules regulation of terms and conditions of the learning licence has not been proved by appellant by any cogent or legal evidence.

Therefore, according to Apex Court decision the objection and the ground taken by the appellant is not tenable in this appeal and except this no other point was raised before this Court. In view of aforesaid principle, this appeal does not have any merits and deserves to be and is hereby dismissed.

Appeal dismissed accordingly, but no order as to costs.