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(3)

*Chist*

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 766 /2002.

APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLE ACT 1988

(Claim valued at Rs 50,000/-).

APPELLANT  
NON APPLICANT NO.1

: The New India Assurance Co. Ltd.  
Building 87, Mahatma Gandhi Marg  
Through : The Sr. Branch Manager,  
The New India Assurance Co. Ltd.  
Bilaspur (C.G.).

*2297/02*  
*Presented by Shri. Senjay Devarangan*  
*dated 16/10/02*

V E R S U S

RESPONDENT NO.1  
CLAIMANT NO.1

: Sendara Bai W/o Prahlad, aged  
about 23 years.

No.1 A

Kunwariyan D/o Prahlad, aged  
about 6 years.

No.1 B

Kanchan S/o Prahlad, aged about  
years.

No. 1 C

Dukhuva S/o Bharosa, aged about  
55 years.

All depended late Prahlad S/o  
Dukhuwa, all resident of village  
Burhan, Thana, Chhui Khadan, Tah.  
Chhui Khadan, Distt. Rajnandgaon  
(C.G.).

RESPONDENT NO.2 Mohd.  
NON APPLICANT No.2

Salam S/o Jan Haji, Owner of Truck  
village & Post. Charghat, Distt.  
Rewa (M.P.).

RESPONDENT NO.3  
NON APPLICANT NO.3

Bhai Lal S/o Bhagirath, aged 30 yrs.  
R/o Mandri, P.S. Pura Mukti,  
P/Distt. Allahabad (U.P.).

....contd....

- 2 -

Being aggrieved by the interim award dated 16-7-2002 passed in Claim Case No. 3/95 by the Additional Claims Tribunal, Khairagarh, between the parties Smt. Sendara Bai & others Versus The New India Assurance Co. Ltd., the appellant begs to prefer this appeal on the following facts and grounds amongst others :-

F A C T S

## आदेश पत्रक

मामला क्रमांक M.A. No. 766/02  
सन् 200

(18)

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><u>31/3/2003</u></p> <p>Shri N.K. Agrawal, Advocate, for the appellant.</p> <p>The insurance company has preferred this appeal against no fault liability passed by the Claims Tribunal. The contention is that the insurance company is not liable to pay the amount.</p> <p>The Claims Tribunal has noted that the incident had occurred due to motor accident. The Tribunal has gone through the material available on record, first information report and other documents and found that the person died as a result of the accident. The Tribunal has further considered the cover note and thereafter passed the impugned award.</p> <p>The contention of the appellant is that the cover note is not genuine and the licence is not valid.</p>	

[पीछे देखिये]

आदेश पत्रक

MA 766/02

मामला क्रमांक

सन् 200

(19)

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>This is a third party claim. Having considered, the Tribunal has directed payment of award. The Tribunal has also directed that the claimants shall withdraw the amount only after furnishing the security. No fault liability is payable by the owner and in case the vehicle is insured by the insurance company for and on behalf of the owner.</p> <p>This Court has gone through the award. Prima facie, the Tribunal has given the finding in favour of the claimants. The said finding cannot be said to be perverse or illegal. This is only for the purpose of no fault liability.</p> <p>Having considered the facts and circumstances of the case and material on record, ends of justice will serve if a direction is given to the claimants to withdraw the amount only after furnishing the security and further on suitable application being made, the owner to furnish the indemnity bond for the said amount before the Claims Tribunal. The insurance company during trial shall further be entitled to</p>	

[पीछे देखिये]

## आदेश पत्रक

मामला क्रमांक

MA 766/02

सन् 200

(20)

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>lead evidence regarding its liability, which shall be considered on its own merits afresh, where all parties will have opportunities. In case the insurance company succeeds, the security furnished by the claimants and the indemnity bond to be furnished by the owner will protect their interest.</p> <p>In the aforesaid view of the matter, this appeal stands disposed of.</p> <p>Consequently, M.C.P. No. 1493/2002 for stay stands disposed of.</p>	<p>Sd/- Fakhruddin Judge</p>