



CANCELLED

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माननीय छत्तीसगढ़ उच्च न्यायालय, बिलासपुर

॥ विविध अपील क्रमांक 616 - /2003 ॥ Division Bench

अपीलांत

नेशनल इंडियोरेंट कम्पनी लिमिटेड

शाखा कार्यालय स्टेशन रोड, दुर्ग

द्वारा शाखा प्रबंधक, बिलासपुर

विरुद्ध

उत्तरवादी-गण

अनावेदक-गण

1. श्रीमती सीता बाई बेवा गोपाललाल
सोनी, आयु 29 साल,

2. राकेश कुमार आत्मज गोपाललाल
सोनी आयु 13³³/₄ साल,

3. रितेश्वरी बाई आत्मज गोपाललाल
सोनी, आयु 10³⁰/₄ साल,

4. नीमू बाई पुत्री गोपाललाल सोनी
आयु 8²⁸/₄ साल,

5. नवदीप आत्मज गोपाललाल सोनी
आयु 5²⁵/₄ साल,

6. रेखमा पुत्री गोपाललाल सोनी
आयु 3²³/₄ साल,

7. श्रीमती रजवन्ती बाई बेवा लखन
लाल सोनी आयु 58 साल,

8. उत्तरवादी क्रं. 2 से 6 तक नाबालिग
जरिये वाली मां श्रीमती सीताबाई
बेवा गोपाललाल सोनी, 29 साल,

9. रामप्यारे आत्मज जहूरसिंह महार,
ट्रक चालक द्वारा/दयाशंकर अग्रवाल,
37/3, नेहरू नगर, ईस्ट दुर्ग

P. R. No. 1438/03
Presented by Shri. Anand Kumar Gupta
dated 26.06.03

Amended and incorporated
deleted the names of
Res no 7 as per Honble
court order dated 26/9/13.
30/9/13. Adv.

Attested

30.9.13

AR-15

उत्तरवादी-गण

अनावेदकगण

Adv
for

11211

9. दयाशंकर अग्रवाल आयु 50 साल, आत्मज गोपालकृष्ण अग्रवाल, दक मालिक, निवासी 37/3, नेहरू नगर, ईस्ट दुर्ग जिला दुर्ग छ. ग.
10. बेनीराम आत्मज गोवर्धनसाहू उम्र 45 साल, फोलाय पारा, दुर्ग जिला दुर्ग छ. ग.
11. रामदयाल आत्मज हुनहर साहू, आयु 40 साल, निवासी फोलाय पारा, जिला दुर्ग

विविध अपील अन्तर्गत धारा 173 मोटर यान अधिनियम

1988



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NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal No.616 of 2003

- National Insurance Company Limited

---- Appellant

Versus

- Smt.Sita Bai And Others

---- Respondents

For appellant : Shri Anand Gupta, Advocate.
For respondents 1 to 7. : Shri HB Agrawal, Sr. Advocate with Shri
Pankaj Agrawal, Advocates.

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

30.11.2016.

Heard.

2. Learned counsel for the parties submit that order dated 22.7.2016 passed in MA No.614 of 2003 (National Insurance Company Limited vs. Smt. Sarita Agrawal & Ors.) is applicable in the present matter and the present matter is covered by the said order. Hence, the instant appeal may be disposed of with the same terms and condition as held in para 5 of the order dated 22.7.2016 which is reproduced as under:

"5. In this view of the matter, the appeal filed by the insurance company is allowed. It is however held that the insurance company will have to satisfy the award but shall be entitled to recover the amount awarded from the owner of the vehicle and for this purpose, it will not file any other civil suit but can initiate



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certificate proceedings within the meaning of Section 174 of the Motor Vehicles Act."

3. As prayed by the parties, the instant appeal stands disposed of in the above terms.

4. Order passed in MA No.614 of 2003 shall form the part of the order.

Bini

Sd/-
(Chandra Bhushan Bajpai)
JUDGE



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Miscellaneous Appeal No.614 of 2003**

National Insurance Company Limited Branch Office Station Road Durg through
Branch Manager, Bilaspur Chhattisgarh

---- Appellant**Versus**

1. Smt. Sarita Agrawal W/o Sushil Kumar aged about 32 years Behind Ram Mandir Durg District Durg Chhattisgarh
2. Rampyare S/o Jahoorsingh Mahar aged about 50 years through Dayashankar Agrawal 37/3 Nehru Nagar East Durg Chhattisgarh
3. Dayashankar Agrawal aged about 50 years S/o Gopalkrishna Agrawal Truck Owner R/o 37/3 Nehru Nagar East Durg District Durg Chhattisgarh
4. Beniram S/o Goverdhan Sahu aged about 45 years Folsaipara Durg District Durg Chhattisgarh

---- Respondents

For Appellant-Company	:	Shri Raj Awasthi, Advocate.
For Respondent-Claimants	:	Shri H.B. Agrawal, Senior Advocate with Ms. Nandkumari Kashyap, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice**Order on Board****22/07/2016**

1. The short question involved in this appeal is whether the insurance company could have been fastened liability to pay compensation without giving any right to recover the same from the owner of the vehicle.
2. The undisputed facts are that the accident took place on 19.9.1994 involving Tempo No. M.B.L. 8313. This vehicle was driven by Rampyare. The stand of the insurance company was that Rampayre did not have a valid driving license. The driving license of Rampyare has been exhibited as D-1. It is

supposed to have initially issued by Road Transport Office, Dhaulpur and renewed by Road Transport Office, Raipur. The insurance company examined certain witnesses. First witness is John Ekka, who is an employee of the insurance company and his evidence is not relevant for the purpose. Second witness is Bhagwan Singh, who is licensing clerk in Road Transport Office, Dhaulpur and this witness had brought the entire record. He states that as per register from 13.4.1989 to 3.6.1989, there was no entry with regard to driving license No. R-75228/89 and no license was issued in name of Rampyare. He further stated that the document showing that Rampyare has been given given driving license by Road Transport Office, Dhaulpur is not a correct document. The Learned Tribunal fastened the liability on the insurance company only on the ground that the insurance company had failed to summon any witness from the office of Road Transport Office, Raipur to proof that there was no entry made in the Road Transport Office, Raipur.

3. I am totally unable to agree with the reasoning of the Learned Tribunal. Even if adverse inference is drawn against the insurance company, it will only prove that driving license was renewed at Raipur. However, mere renewal of fake or false driving license does not make it a valid license. Something which is inherently forged does not become legal and valid only because it is renewed.

4. In this behalf reliance may be placed on the judgment of Apex Court in case of **New India Assurance Com. Shimla v. Kamla & Others, (2001) 4 SCC 342**. The Apex Court held that if the fake driving license was unwittingly renewed by Licensing Authority, it does not acquire legal validity and it remains a counterfeit document. Similar view has been taken in case of **Oriental Insurance Co. v. Zaharulnisha & Others, 2008 AIR SCW 3251**.

5. In this view of the matter, the appeal filed by the insurance company is allowed. It is however held that the insurance company will have to satisfy the

award but shall be entitled to recover the amount awarded from the owner of the vehicle and for this purpose, it will not file any other civil suit but can initiate certificate proceedings within the meaning of Section 174 of the Motor Vehicles Act.

Sd/-
(Deepak Gupta)
Chief Justice

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