

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1064 of 2016

Bharti Axa General Insurance Co. Ltd. Through Its Branch Manager,
Branch Office, Chawla Complex, Devendra Nagar Road, Sai Nagar,
Raipur, District- Raipur, Chhattisgarh

---- Appellant

Versus

1. Sukmat Bai W/o Late Shri Gulab Singh Gond, Aged About 46 Years
R/o Village Lokdha Pasan, District Korba, Chhattisgarh, Presently
Residing At Janjgir, Tehsil Janjgir, District Janjgir-Champa,
Chhattisgarh
2. Shri Shayam Vidhut, R/o Station Road Champa, Thana- Champa,
District- Janjgir-Champa, Chhattisgarh

---Respondents

For Appellant	:	Mr. P. Acharya, Advocate under instructions of Mr. Amrito Das, Advocate
For Respondent No.1	:	Mr. Rishi Sahu, Advocate
For Respondent No.3	:	Mr. Vinod Deshmukh, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

31/08/2017

1. The challenge in the present appeal is the award dated 11.03.2016 passed by the Motor Accident Claims Tribunal, Janjgir-Champa, District Janjgir-Champa (C.G.), in Motor Accident Claim Case No. 21/2014. Vide the impugned award in a death case under Section 166 of the Motor Vehicle Act, the tribunal has passed an award of Rs.3,49,000/- with interest @ 8% per annum from the date of application.
2. The present is an appeal by the Insurance Company. The challenge is on the ground that the driver of the offending vehicle at the relevant point of time was not having a valid license. According to the counsel for the Insurance Company, the witness from the office of the R.T.O. both from Bilaspur as well as from Korba were examined and in the course of their evidence it has been reflected that the original license, which was allegedly issued from the office of R.T.O. Bilaspur was a fake document. However the witness from the R.T.O. Korba has accepted the fact that the said license was

subsequently duly renewed from the R.T.O. Korba and the validity of that license was for a considerable period of time with renewals at regular intervals continuously from 07.07.2002 onwards and was lastly renewed up to 06.07.2014 and the accident took place on 28.04.2013 i.e. during the validity period of license lastly renewed.

3. The core question involved would be as to whether there was any error or lapse on the part of the owner of the offending vehicle alleging breach of policy condition. Undisputedly, when owner had engaged the driver, he had license, which was duly renewed from the office of R.T.O. Korba and which fact also stands admitted from the witness from R.T.O. Korba. Thus this Court has no hesitation in reaching to the conclusion that so far as the lapse on the part of the owner is concerned, the Insurance Company has not been able to adduce any evidence by which they could be exempted or exonerated from their liability of indemnifying the insured.
4. In view of the same, this Court does not find any strong case for admitting the appeal and thus the appeal fails and is accordingly dismissed.
5. The appellant is directed to honour the award within a period of 30 days from the date of the receipt of the certified copy. Meanwhile, it is expected that the respondents may not initiate any coercive step for recovery of the amount awarded.

Sd/-
(P. Sam Koshy)
Judge