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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

Anu