NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MAC No.614 of 2006

The New India Ansurance Company Limited Divisional Manager, Divisional Office, Kachehari Chowk, Jail Raod, Raipur (Chhattisgarh) through its acting divisional manager, Divisional office, Bus Stand Road, Bilaspur (CG).

----Appellant

Versus

1. Pramod Chandrakar, aged about 33 years, S/o late B.P Chandrakar, occupation Travelling Business, R/o Behind Ayurvedic College Near Gayatri Hospital, Rohinipuram, Raipur, Tehsil & Distt. Raipur.
2. Premsingh, aged about 30 years S/o Kashmira Singh Punjabi, occupation Truck Driver, R/o Khursipar, Bhilai, Tehsil and District Durg.
3. Karamsingh S/o Surendra Singh, occupation Truck Owner R/o Kohka Bhilai, District Durg (CG).

---- Respondents

For Appellant	:	Shri Dashrath Gupta, Advocate.
For Respondent No.3	:	Shri Uttam Pandey and Ms. Kiran Singh, Advocates.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

04/08/2017

1. The present is an appeal under section 173 of the Motor Vehicles Act filed by the insurance company against the award dated 15.09.2006 passed by the 11th Additional Motor Accident Claims Tribunal, Raipur (in short, the Tribunal) in Claim Case No.94 of 2004.
2. The facts of the instant case being undisputed, this court does not intend to give the factual details, inasmuch as, the accident, the resultant injury caused and the offending vehicle involved in the case is not in dispute.
3. The solitary ground which the insurance company has challenged is

that, it was a case where the policy which is said to have been produced before the Tribunal insuring the offending vehicle was found to be a fake policy, and therefore, the insurance company should have been exonerated of its liability and the responsibility ought to have been fastened upon the owner of the vehicle. In support of his contention, he submits that there were two more claim applications filed under Section 166 of the Motor Vehicles Act arising from the same accident which was registered as claim case Nos.59/04 and 97/04 and in both these cases the Tribunal has exonerated the insurance company of payment of compensation and have fastened the liability of payment of compensation upon the owner of the offending vehicle. The owner of the said vehicle has not questioned the said finding of the Tribunal in both the cases and as such the said finding has attained its finality. Therefore, a different view taken by the Tribunal would be in contradiction to the findings given by the Tribunal in two other claim cases arising out of the same accident.

4. This aspects and facts which has been submitted by the counsel for the appellant is not disputed or rebutted by the counsel for the respondent No.3-Owner of the vehicle.

5. In view of the aforesaid factual matrix of the case, this court is also of the view that since there is already a finding of the Tribunal in two claim cases arising of the same accident against the respondent No.3-owner and which the owner has not challenged in appeal, this court is inclined to accept the contention of the insurance company

and hold that the insurance company shall not be liable for payment of compensation and the responsibility of payment of compensation thus, would fall upon the respondent No.3-owner of the vehicle.

6. With the aforesaid observations, the appeal of the insurance company stands allowed.

Sd/-
(P. Sam Koshy)
Judge

inder