

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 68 of 2009**

Bajaj Allianz General Insurance Company Limited, Office at Shiv
Mohan Bhawan, Vidhan Sabha Road, Pandri, Raipur, Chhattisgarh

---- Appellant**Versus**

1. Jeevan, S/o. Patiram Sahu, Aged about 36 years, R/o. Atargawan, Tahsil and Police Station Navagarh, District Durg, Chhattisgarh
2. Sanjay S/o. Jhumuklal Soni, Aged about 32 years, R/o. Village Andhiyarkhor, Police Station Navagarh, District Durg, Chhattisgarh

----Respondents

For Appellant	:	Mr. Ghanshyam Patel, Advocate
For respective Respondent	:	Mr. R.K. Pali, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****01/11/2017**

1. Present is an appeal under Section 173 of the Motor Vehicles Act by the Insurance Company challenging the award dated 30.06.2008, whereby the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.2,25,000/- with interest @ 6% per annum from the date of application.
2. The present appeal is by the Insurance Company primarily on the ground that the vehicle involved in the accident was a motorcycle bearing registration No. CG-07-LH-2388, which was owned and driven by the respondent No.2 at the time of the accident.
3. Counsel for the Insurance Company submits that the Owner-cum-Driver had in spite of specific notice being issued by the Insurance Company has failed to produce the original of the driving license that he had and that subsequently he had produced a photocopy of the

driving license, which too was a photocopy of a duplicate license, he showed. Though the witness from the R.T.O. has been examined, but he could not establish the fact whether it was a fake license or not.

4. Counsel for the Insurance Company submits that subsequent to the filing of the present appeal on an information sought from the Transport Authority, another document has been obtained from the Licensing Authority i.e. R.T.O. Raipur, who has shown that the license number which is reflected in the license, which has been produced by the Owner-cum-Driver in the present case i.e. respondent No.2 belongs to a different person namely Saroj Kumar Choudhari and thus prayed for the award to be suitably modified and the liability of payment of compensation be shifted from the Insurance Company to the Owner-cum-Driver.
5. Mr. Pali appearing for the Claimant, however opposing the appeal submits that the Insurance Company in the instant case has failed to adduce sufficient evidence to hold that the license of the Owner-cum-Driver was a fake license and that the observation in the order of Tribunal clearly shows that the original of the duplicate license was produced by the respondent No.2 before the Tribunal and thus prayed for rejection of the appeal.
6. Considering the entire facts and circumstances of the case, particularly the evidence which have come on record by the office of R.T.O. examined before the Tribunal has also the document, which has subsequently brought on record by the Insurance Company in

their application dated 23.01.2009 showing that the number of the license shows is to have been issued to one Saroj Kumar Choudhari, this Court is of the opinion that there is a sufficient force which has been put by the Insurance Company, so far as the contentions is concerned, the appeal of the Insurance Company thus deserves to be and is allowed in part to the extent and it is ordered that the Insurance Company shall pay the entire amount awarded by the Tribunal first and shall have the liberty of getting the said amount recovered from the Owner.

7. The appeal thus stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved