HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1703 of 2016

National Insurance Company Through Branch Manager, National Insurance, 13 Manu Complex, Main Road, Kosabadi Korba, District Korba, Chhattisgarh ................ (Insurer)

---- Appellant

Versus

1. Smt. Shivkumari W/o Aagar Prasad Pradhan, Aged About 36 Years R/o Kosmanda, P.S. Champa, District Janjgir-Champa, Chhattisgarh ...................(Claimant)
2. Santosh Khare S/o Heeralal Khare, Aged About 32 Years R/o Kosmanda, P.S. Champa, District Janjgir-Champa, Chhattisgarh ................(Owner-Driver)

---- Respondents

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| For Appellant | : | Mr. Raj Awasthi, Advocate |
| For Respondents | : | Ms. Laxmin Tondey, Advocate |

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Hon'ble Shri Justice Sanjay K. Agrawal

On Board

08/05/2017

1. This appeal has been preferred by the Insurance Company under Section 173 of the Motor Vehicles Act questioning the award passed by the Claims Tribunal merely on the ground

that the respondent No. 2 did not have a valid and effective licence to drive the offending vehicle and, therefore, claimed that the award is not sustainable against the Insurance Company.

2. Mr. Raj Awasthi, learned counsel for the appellant/Insurance Company would vehemently submit that respondent No.2 is the owner-cum-driver of the offending vehicle and he did not produce or file a valid and effective licence to drive the offending vehicle, therefore, the Insurance company cannot be held liable to pay the amount of award.

3. Ms. Laxmin Tondey, learned counsel for the respondents would oppose the above submission and would submit that the Insurance company failed to lead any evidence before the Claims Tribunal to substantiate its plea that respondent No.2 did not have any valid and effective licence to drive the offending vehicle.

4. I have heard learned counsel for the parties and perused the record. It is clear from the record that the insurance company did not lead any evidence before the claims Tribunal to substantiate its plea with regard to Respondent No.2's having a valid and effective licence to drive the offending vehicle. The appellant/Insurance company was obliged to produce relevant documents and bring evidence

on record to prove the same, but it failed to do so by leading appropriate legal evidence.

5. In absence of appropriate evidence on record, the Tribunal was justified in fastening the liability upon the insurance company.

6. Consequently, the appeal deserves to be and is dismissed. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
JUDGE

santosh