**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MAC No. 1309 of 2017**

ICICI Lombard General Insurance Co. Ltd. Through Its In-Charge Officer, I C I C I Lombard General Insurance Co. Ltd., Lal Ganga Shopping Mall, G.E. Road, Raipur, District Raipur, Chhattisgarh

**---- Appellant**

**Versus**

1. Smt. Saraswati Bai W/o Late Shri Priyank Kumbhkar, Aged About 23 Years R/o Ward No.11, Chuikhadan, District Rajnandgaon, Chhattisgarh
2. Ajay Kumbhkar S/o Shri Panchu Ram, R/o Ward No.11, Chuikhadan, District Rajnandgaon, Chhattisgarh
3. The Oriental Insurance Company Limited, Branch Office, Near Railway Station Rajnandgaon, District Rajnandgaon, Chhattisgarh
4. Ramesh Lilhare S/o Shri Babulal Lilhare, R/o Indira Nagar, Dongargarh, District Rajnandgaon, Chhattisgarh

**----Respondents**

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| For Appellant | : | Mr. Amrito Das, Advocate |

**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**21/09/2017**

1. Present is an appeal by the Insurance Company assailing the award dated 27.07.2017, passed by the Additional Motor Accident Claims Tribunal, Khairagarh, District Rajnandgaon, Chhattisgarh, in Claim Case No. 67/2012. Vide the said impugned award the Tribunal, in a death case under Section 166 of the Motor Vehicles Act, has awarded an amount of Rs.4,52,000/- with interest @ 9% per annum from the date of application.

2. The challenge by the Insurance Company to the award is the liability part alleging that the claimants have not been able to prove their case in the Tribunal to the extent that the driver of the offending vehicle was holding a valid license.

3. According to Mr. Amrito Das, the claimants as well as the respondents have not been able to provide the details of license of the driver of the offending vehicle with which it could have been verified whether he had a valid license or not. In the absence of any

details provided during the course of the evidence, the Insurance Company cannot be saddled with the liability of payment of compensation.

4. Perusal of the record would show that the driver of the offending vehicle also had expired in the said accident. Since the driver had expired along with the deceased, the contentions put forth by the counsel for the Insurance Company cannot be accepted and it has to be presumed unless otherwise proved by the Insurance Company that the deceased driver of the offending vehicle also was having a valid license.

5. In view of the same, this Court does not find any strong case worth admitting the appeal. The same therefore deserves to be and is accordingly dismissed.

Sd/-
**(P. Sam Koshy)**
**Judge**

Ved