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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 398 of 2017

I C I C I Lombard General Insurance Co. Ltd. Office- Vijaya Bhawan Ground Floor Devendra Raipur, Tehsil And District Raipur, Chhattisgarh.

---- **Appellant**

Versus

1. Rahman S/o Shri Mohd. Hani Ansari, aged about 31 Years R/o Village Gudri, Post Baitalpur, Thana Gauri Bazar, District Dewariya, Uttar Pradesh.
2. Sanjay Kumar S/o Shri Shivdhar Prasad, R/o Village Gudri, Post Baitalpur, Thana Gauri Bazar, District Dewariya, Uttar Pradesh.
3. Venkatesh Logistic Pvt. Ltd., Through The Authorised Officer/ Competent Officer, Venkatesh Logistic Pvt. Ltd., R/o B-8, Brindawan Garden, Bhagwanpur, Raigarh, District Raigarh, Chhattisgarh.

---- Respondents

For Appellant	:	Shri P.Acharya, Advocate
For Respondent No.1	:	Shri Chandradeep Prasad, Advocate on behalf of Shri Vikash Shrivastava, Advocate

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Hon'ble Shri Justice P. Sam Koshy

Order On Board

25/08/2017

1. Present is an appeal under section 173 of the Motor Vehicle Act preferred by the Insurance Company assailing the award dated 08/12/2015 passed by the 4th Additional Motor Accident Claim Tribunal, Raipur (C.G) in Claim Case No.346/2011.

2. Vide the said impugned award, the Tribunal has passed an award in an injury case to the tune of Rs.4,72,504/- along with interest @ 8% per annum from the date of application.

3. The sole ground of challenge raised by the Insurance Company is the fact that the driver of the offending vehicle at the relevant point of time did not have a valid license and that during the course of verification of license produced by the driver it was found to be a fake and inquiry in this regard was done by the Tribunal by appointment of commission and who has submitted his report before the Tribunal stating that driver did not have a valid license and the license produced was infact a fake license.

4. Having considered the contentions put forth by the counsel for the appellant, when we verify the records what reflects is that the driver at the time of engagement as driver by the owner-Respondent No.3 had produced the

license and under bonafide belief of it being a valid license, the owner had engaged the Respondent No.2 as driver.

5. So far as the facts which have come on record it does not reflect nor is their any evidence to show that the owner i.e. Respondent No.3 at any point of time was at fault or there was any lapse on his part in the operation of the Truck bearing Registration No. CG-13-D-1172 owned by him which was duly insured with the present appellant-Insurance Company.

6. Unless lapse or fault is proved against the owner of having committed some breach of policy condition, appellant-Insurance Company is duty-bound to indemnify the owner of the vehicle having issued valid Insurance Policy for the relevant period.

7. In view of the same, this court is of the opinion that no strong case worth admitting the appeal has been made out by the Insurance Company and the appeal being devoid of merit the same deserves to be and is accordingly rejected.

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

Sumit