

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1345 of 2017**

The New India Assurance Company Limited, Through Branch Manager, Address Madina Building, Jail Road, Raipur, Chhattisgarh.

---- Appellant**Versus**

1. Sunil Dayani S/o Shri Brijlal Dayani Aged About 29 Years
2. Krishna Dayani S/o Sunil Dayani Aged About 2 Years
Claimant No. 2 is Minor, Through Natural Guardian (Father) Sunil Dayani, R/o Main Road Katora Talab, Thana Civil Line District Raipur, Chhattisgarh
3. Manish Dhanwani S/o Late Rajkumar Dhanwani Aged About 25 Years R/o Near Sant Kawarram Chawk, Katora Talab, Raipur Thana Civil Line, District Raipur, Chhattisgarh

----Respondents

For Appellant	:	Mr. Deepak Gupta, Advocate
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/10/2017**

1. The present is an appeal under Section 173 of the Motor Vehicles Act. Challenge is to the award dated 03.07.2017, passed in Claim Case No. 730/2014, passed by the 2nd Additional Motor Accident Claims Tribunal, Raipur, Chhattisgarh.
2. Vide the said impugned award, the Tribunal in a claim case under Section 166 of the Motor Vehicles Act has passed an award for payment of compensation of Rs.5,65,000/- with interest @ 9% per annum from the date of application.
3. The sole ground of challenge is that the driver of the offending vehicle at the time of accident was not having a valid license.
4. The counsel for the appellant submits that the Insurance Company vide the said impugned award while deciding issue No.2 has

reached to the conclusion that the driver of the offending vehicle did not have valid and effective driving license at the time of accident.

5. The claimants are the husband and son of the deceased Kirti @ Soniya Dayani, who died in an accident on 08.06.2014, when a Car in which she was travelling driven by the driver Rajkumar Dhanwani and owned by the respondent No.3 fell in a canal resulting in grievous injuries, to which she later succumbed.
6. According to the counsel for the appellant since there was a categorical finding of there being no license at the time of accident, the Insurance Company cannot be directed to deposit the amount of compensation though with the liberty of recovering the same from the owner.
7. Perusal of the fact would reveal that in the said accident the driver Rajkumar Dhanwani also had expired and it is a case where the driver having expired, there is a possibility that the respondent has not been able to collect or produce sufficient evidence to prove of it being a case of no license.
8. Considering the facts and circumstances of the case particularly the fact that the driver has also died from the accident and the undisputed fact that the vehicle being dully insured with the appellant-Insurance Company, this Court is of the opinion that the finding of the Tribunal, so far as pay and recovery fastening the liability of payment of compensation upon the Insurance Company and to recover the same from the owner cannot be said to be bad in law in any manner.
9. The view of this Court stands fortified from the decision of the Hon'ble Supreme Court in the case of ***"Manuara Khatun and***

others vs. Rajesh Kumar Singh and others", reported in **2017 (4) SCC 796**.

10. The appeal thus being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved