NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MAC No. 1123 of 2011

Bajaj Allianz General Insurance Co. Ltd. Shiv Mohan Bhawan, Vidhan Sabha Road, Pandri, Raipur (CG).

---- Appellant

Versus

1. Sharad Sharma S/o Govardhan Sharma, aged about 21 years, R/o Shiv Nagar, Handipara, Thana, Aajaz Chowk,Raipur (CG).
2. Khubiram S/o Mukutram R/o Mandhar, Police Thana, Dharsiva, District Raipur C.G.
3. Randhir Shrivastava S/o Jugal Kishore R/o Mandhar Colony, Near C.C.I. Barrier, Mandhar, Police Thana Dharsiva, District Raipur C.G.

---- Respondents

For Appellant : Shri SS Rajput, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

19.01.2018

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the insurance company assailing the award dated 12.05.2011 passed by the 2nd Additional Motor Accident Claims Tribunal, Raipur (in short, the Tribunal) in Claim Case No.138 of 2010. Vide the said impugned award, the Tribunal in an injury case has awarded a compensation of Rs.40,000/- with interest @ 6 percent per annum from the date of application.
2. The solitary ground of challenge by the appellant-insurance company is that the license of the driver in the instant case was found to be fake license and yet the Tribunal has fastened the liability of payment of compensation upon the insurance company. The insurance company has led evidence of its witness who has deposed before the

Tribunal that the license which was produced during the course of trial was subjected to verification and it was found to be a fake license. He further submits that subsequently another license was also produced claiming it to be license of the driver and the same also on verification from the RTO, Raigarh, who gave a report vide letter dated 11.09.2012 to be fake one. Thus, from the aforesaid it clearly establishes that the driver of the offending vehicle did not have a valid license at the time of accident and therefore prayed for exoneration of the insurance company.

3. Given the facts and circumstances of the case particularly taking note of the amount of compensation awarded and the fact that no interim order was granted and the insurance company must have deposited the entire amount awarded, this court is of the opinion that the present is a fit case where the doctrine of “Pay and Recover” could be made applicable. It is ordered accordingly.

4. The appellant-insurance company shall deposit the entire award amount, if not deposited till date, before the Tribunal with liberty to recover the same from the driver and the owner of the offending vehicle.

5. The appeal thus stands partly allowed and disposed of.

Sd/-
(P.Sam Koshy)
Judge

inder