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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 825 of 2017

- Bilal Khan son of Ajij Khan, aged about 22 years, R/o. Kapoor Dafai, Chirmiri, P.S. Chirmiri, Tahsil Manendragrh, District- Korea (C.G.),

---- Appellant

Versus

1. Avinash Kumar son of Naresh Kumar, aged about 06 years, Caste Uraon, Minor through natural guardian mother Smt. Meel Kumari wife of Jaykaran, aged about 30 years, R/o Amgaon, Semarpara, P.S. Churcha Colliery, Tehsil Baikuthpur, District- Korea (C.G.),

2. Manager, United India Insurance Company Limited, Branch Office, Near Ram Mandir, Ambikapur, District- Surguja (C.G.),

3. Naresh Kumar son of Jaikaran, aged about 34 years,

4. Shyampati wife of Naresh Kumar, aged about 32 years,

No. 3 and 4 are R/o. Amgaon (Semarapara), P.S. Churcha Colliery, Tahsil Baikunthpur, District Korea (C.G.).

(As per order dated 1.12.2018, name of respondent No. 4 is deleted as the respondent No. 4 died)

---- Respondents

For Appellant :Shri Jitendra Shukla, Advocate.
For Respondent No.2/I.C. :Shri Shri Pankaj Agrawal, Advocate
For Claimants/Respondent Nos. 1& 3: Shri A. L. Singroul, Advocate

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Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

18.03.2019

(1) This appeal is filed by the owner-cum-driver under Section 173 of the Motor Vehicles Act, 1988 (in short “the Act”) challenging the award dated 02nd May, 2017 passed by Additional Motor Accident Claims Tribunal (FTC), Baikunthpur, District Korea in Claim Case No. 63/2013, awarding compensation of Rs.4,83,000/- in favour of claimant along with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicant No.1/owner-cum-driver while

exonerating non-applicant No.2/insurance company of its liability to pay compensation to the claimant.

(2) As per averments in the claim petition, on 04.03.2006, when claimant Avinash, aged about 6 years, at the relevant point of time, was playing near his home at village Shivpur, the non-applicant No. 1/owner-cum-driver while riding the offending vehicle (Hero Honda Motorcycle) bearing registration No. CG-16 C./6998 rashly and negligently, dashed the claimant, as a result of which, the claimant sustained multiple injuries over head, arms and other parts of body and after the injuries caused to Avinsh, he became unconscious and went to coma and was immediately brought to Charcha Hospital. After the primary treatment, for better treatment claimant was admitted at Ambikapur Mission Hospital, where on the basis of information of said hospital to P.S. Churcha, the case was registered against the appellant / owner-cum-driver of the offending vehicle in Crime No. 34/2006 for the offence under Section 279, 337 & 338 of the Indian Penal Code and Section 2/181 of the Motor Vehicles Act, 1988 (for short "Act of 1988).

(3) On a claim petition being filed by the claimant, through his aunt– Smt. Meel Kumari, under Section 166 of the Act, the Tribunal considering the evidence led by the parties, by the impugned award granted compensation as mentioned above.

(4) Learned counsel appearing for the appellant/driver-cum-owner would submit that learned Tribunal has exonerated the Insurance Company to pay compensation to the claimant on the ground of fake driving licence but at the time of accident, driving licence of the driver-cum-owner of the offending vehicle was renewed by Bilaspur Transport Authority and there is no specific issue framed by learned Claims Tribunal regarding fake licence. He submits that if the licence was fake or forged or fabricated, the licence cannot be renewed by Regional Transport Authority, Bilaspur vide licence No. B/4030/2004, therefore, that appellant/driver-cum-owner did have valid and effective driving licence at the time of accident and, as such, the Claims Tribunal has fallen in error in exonerating the non-applicant No. 2/Insurance Company from its liability to pay compensation to the claimant on the above ground.

(5) Learned counsel for the respondents would support the impugned award.

(6) I have heard learned counsel appearing for the parties and perused the record of Claims Tribunal including award impugned.

(7) As per evidence adduced on behalf of Insurance Company, the original driving licence was issued from Ranchi Regional Transport Authority and witness to this effect has already been examined by the Insurance Company. It is not disputed that non-applicant No. 1, appellant herein is the driver-cum-owner of the offending vehicle but licence No. 4030/2004 has been issued in favour of one Amjad Ansari and not in the name of appellant/driver-cum-owner. Mayank Shukla (NAW No. 1), Administrative Officer of the United India Insurance Company, in his statement in paragraphs 3 & 4, has stated that no any valid & effective driving licence was issued by the Transport Authority in favour of the appellant. Lalan Prasad Singh (NAW-2), posted as clerk in District Transport Authority, Ranchi, Jharkhand in his statement para 2 & 3, has stated that driving licence No. 4030/2004 has been issued in favour of one Amjad Ansari for Light Motor Vehicle for private purpose and no driving licence being B4030/2004 has been issued by the Ranchi Transport authority. Furthermore, as per particulars given by the non-applicant No. 1/appellant herein, the driving licence issued by RTO, Bilaspur is on record but the original licence No. B/4030/04 issued by Ranchi Transport Authority, Jharkhand and certified by Regional Transport Authority, Bilaspur. Non-applicant witness No. 2- Lalan Pratap Singh has specifically stated in his statement that no any driving licence B/4030/2004 was issued in the name of any person and it only issued commercial driving licence in favour of Amjad Ansari bearing no. 4030/2004. Thereafter, non-applicant No. 2/Insurance Company has verified the aforesaid facts from Ranchi Transport Authority, after due verification, RTO found that the licence possessed by the non-applicant No. 1, appellant herein is forged and fabricated.

(8) In the matter of **Kamal & others Vs. United Insurance Company** reported in (2001) 4 SCC 342, the Hon'ble Supreme Court while dealing with the issue of renewal of fake driving licence and its consequences observed as under:

> **"12. As a point of law we have no manner of doubt that a fake licence cannot get its forgery outfit stripped off merely on account of some officer**

> **renewing the same with or without knowing it to be forged. Section 15 of the Act only empowers any Licensing Authority to "renew a driving licence issued under the Provisions of this Act with effect from the date of its expiry". No Licensing Authority has the power to renew a fake licence and, therefore, a renewal if at all made cannot transform a fake licence as genuine. Any counterfeit document showing that it contains a purported order of a statutory authority would ever remain counterfeit albeit the fact that other persons including some statutory authorities would have acted on the document unwittingly on the assumption that it is genuine."**
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> **"13. The observation of the Division Bench of the Punjab and Haryana High Court in National Insurance Co. Ltd. V. Sucha Singh reported in 1994 ACJ 374 (P& H) that renewal of a document which purports to be a driving licence, will robe even a forged document with validity on account of Section 15 of the Act, propounds a very dangerous proposition. If that proposition is allowed to stand as a legal principle, it may, no doubt, thrill counterfeiters the world over as they would be encouraged to manufacture fake documents in a legion. What was originally a forgery would remain null and void forever and it would not acquire legal validity at any time by whatever process of sanctification subsequently done on it. Forgery is antithesis to legality and law cannot afford to validate a forgery."**

(9) In view of the aforesaid legal analysis, it is clear that particulars given by the appellant/driver-cum-owner regarding the driving licence was found fake. Thus, the

Claims Tribunal is absolutely justified in fastening the liability upon the appellant/driver-cum-owner of the offending vehicle while exonerating the Insurance Company from its liability to pay compensation to the claimant.

(10) In view of foregoing, appeal being devoid of merit is liable to be and is hereby dismissed.

Sd/-

(Gautam Chourdiya)
Judge

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