(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 56 of 2021

1. Prakash Chand Rai S/o Gaya Ram, aged about 42 years R/o Village Azad Ward No. 01, Navapara, Ambikapur, District Surguja (CG) (Owner)

2. Rajan Gond S/o Arjun Gond, aged about 43 years, R/o Village Amdi, Thana Dhaurpur, District Surguja (CG) (Driver)

---- Applicants

Versus

1. Shri Ram General Insurance Company Limited, Head Quarter, E-8, Epip, Riico, Industrial Area, Sitapura, Jaipur, Rajasthan. (Insurer)

2. Smt. Meera Devi W/o Rameshwar Prasad Gupta, aged about 47 years

3. Rameshwar S/o Manrakhan Sao, aged about 52 years

4. Ku. Savita D/o Rameshwar, aged about 27 years.

5. Dilip Kumar Gupta S/o Rameshwar Prasad, aged about 22 years.

   Respondent No.2 to 5 are R/o Village Naya Kudur, Post Baboli, Thana Dhaurpur, District Surguja (Chhattisgarh)
   (Respondent No. 2 to 5 are Claimants)

---- Respondents

For Applicants	:	Mr. Sunil Pillai, Advocate

Hon'ble Shri Parth Prateem Sahu, J

Order On Board

13/7/2021

1. By this instant review petition the petitioners, driver & owner of offending vehicle, are seeking review of the order dated

29.10.2020 passed by this Court in MAC No.796/2015 by which appeal filed by appellant Insurance Company was partly allowed; finding recorded by the Claims Tribunal that there was no breach of insurance policy conditions was set aside and liability to pay amount of compensation is fastened upon the driver and owner of offending vehicle i.e. applicants herein.

2. Facts relevant for disposal of this case are that Dipak Kumar while driving tractor, met with an accident and succumbed to motor accidental injuries suffered by him. Mother of deceased filed an application under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act of 1988') seeking compensation of Rs.24,07,000/-. Non-applicant No.1-driver and non-applicant No.2-owner of offending vehicle submitted their reply to claim application denying the facts pleaded therein. Non-applicant No.3-Insurer of offending vehicle also submitted its reply to claim application taking specific plea of breach of policy condition on the ground that at the time of accident, the driver of offending vehicle was not possessed with valid and effective driving license. The Claims Tribunal allowed claim application, awarded Rs.3,47,000/- as compensation and held that breach of any of the policy conditions is not found to be proved.

3. While dealing with the ground raised in miscellaneous appeal by the Insurer with regard to breach of policy condition on account of non-availability of valid and effect driving license

with driver of offending vehicle on the date of accident, this Court has considered the provisions of the Act of 1988 and the Rules made thereunder, copy of license available on record, which was valid for a period of five years i.e. upto 16.5.2012, whereas date of accident was 30.9.2013, date of renewal of the license i.e. 7.11.2013, and allowed the appeal filed by insurer holding that on the date of accident, the driver of offending vehicle was not possessed with valid and effective driving license.

4. Mr. Sunil Pillai, learned counsel for the review petitioners would submit that under the provisions of Section 14 of the Act of 1988, the license to drive light motor vehicle is to be issued for a period of 20 years. Age of the driver on the date of issuance of license was 25 years. The license in favour of driver of offending vehicle was issued on 17.5.2007, hence by applying the provisions of Section 14, the validity period of license ought to had upto 16.5.2027. Validity period mentioned in license was erroneously mentioned by the office of Licensing Authority concerned, hence the date of expiry of license and its renewal on 7.11.2013 is inconsequential.

5. While deciding miscellaneous appeal, this Court from Paragraph No.17 onwards of impugned order has considered the issue with regard to breach of policy conditions in the light of pleading that driver of offending vehicle was not possessed with valid and effective driving license on the date of accident.

It has been very specifically mentioned in the impugned order under review that the period of currency of license is mentioned only upto 16.5.2012. License was renewed only after about more than one year and four months from the date of its expiry. This Court taking into consideration the settled position that renewal of license will be effective from the date of its renewal, if application for renewal is filed after 30 days of expiry of license, and rulings of the Hon'ble Supreme Court on the issue in **Ishwar Chand & ors vs. Oriental Insurance Co. Ltd.** reported in **2007 (2) T.A.C. 393 (SC); Rambabu Tiwari vs. United India Insurance Co. Ltd. & ors** reported in **(2008) AIR SCW 6512**, has held that on the date of accident i.e. 30.9.2013, the driver of offending vehicle was not possessed with valid and effective driving license. License was renewed on 7.11.2013.

6. The scope for exercising jurisdiction of review is very limited. The law in this regard is well settled that it can be exercised only when review petitioner could be able to point any error apparent on the face of record. Hon'ble Supreme Court in case of **Meera Bhanja vs. Nirmala Kumar Choudhury** reported in **(1995) 1 SCC 170** has observed that "....*error must be such as would be apparent on mere looking of the record without requiring any long drawn process of reasoning..".* In case of **State of West Bengal vs. Kamal Sen Gupta** reported in **(2008) 8 SCC 612** the Hon'ble Supreme Court has observed that "...*mistake or error apparent on the face of*

record means mistake or error which is prima facie visible and does not require any detailed examination...”. Recently, in case of **Shanti Conductors vs. Assam Electricity Board** reported in **(2020) 2 SCC 677** it was observed by Hon’ble Supreme Court that “...*under the guise of review the petitioner cannot be permitted to re-agitate and re-argue the questions which have been addressed and decided...”*

7. In case at hand, the ground raised by review petitioners has already been considered and decided by this Court while passing the impugned order. Learned counsel for the review petitioners could not be able to point out in the impugned order any error apparent on the face of record which warrants exercise of review jurisdiction. Hence, I do not find any good ground for review of the impugned order.

8. For the foregoing reasons, the review petition is liable to be dismissed and it is hereby dismissed. No order as to costs.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-