NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 811 of 2015

- National Insurance Company Limited Through The Branch Manager, Branch Office In Front Of Head Post Office, Jagdalpur, District Bastar Chhattisgarh

---- Appellant

Versus

1. Ku. Aasmati (Aasho) D/o Sanku Aged About 14 Years Minor Through Natural Guardian Father Sanku S/o Hanga Tribal, R/o Katakanda, Schoolpara, Post Office Dilmili, Police Station Kodenar District Bastar Chhattisgarh

2. Hemant Kumar Michha S/o Doli Michha Aged About 22 Years R/o Bhairamgadh, P.O. Narkeli, Tahsil Bhairamgadh, Police Station Bedre, District Bijapur Chhattisgarh

---- Respondents

For Appellant	:	Shri Goutam Khetrapal, Advocate
For Respondent No.1	:	Shri Vivek Tripathi, Advocate

S.B.: Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

30/11/2021

1. The appellant herein, who is the Insurance Company and insurer of the vehicle, has called in question the impugned award by which, learned Claims Tribunal fastened the liability on it to pay Rs.3,61,000/- along with 9% interest to the claimants from the date of institution.

2. Shri Khetrapal, learned counsel for the appellant / insurance company would submit that though the witness of the Insurance Company namely Hemant Kumar Michha, driver and owner, was summoned to appear before the Claims Tribunal on 30/01/2015 yet he did not appear though served and opportunity to lead evidence was closed abruptly and impugned award was passed, as such, the liability to pay compensation has been fastened on the Insurance Company.

3. Learned counsel for the claimant / respondent No.1 supports the award passed by the Claims Tribunal.

4. I have heard learned counsel for the parties, considered their rival submissions made herein above and also went through the records with utmost circumspection.

5. Though the Insurance Company in its written statement filed before the Claims Tribunal has taken a plea that the owner - Hemant Kumar Michha, who was driving the vehicle did not have valid driving license on the date of incident to drive the vehicle but they did file any application for summoning the driver before the Claims Tribunal and sought to examine the driver - Hemant Kumar Michha. This summon was served to driver to appear before the Claims Tribunal but he did not appear and also remained ex-parte through out before the Claims Tribunal. Therefore, the Tribunal closed the evidence of the Insurance Company as no other witness was examined. But the fact remains that the appellant / Insurance Company did not take any effective steps to verify whether the owner / driver - Hemant Kumar Michha was having valid driving license and did not prove its case by leading proper evidence except to summon the driver and failed to file copy of driving license, if any of respondent No.2. As such, it cannot be said that the appellant / Insurance Company was not given opportunity to lead evidence.

6. I do not find any merit in this case. The appeal is, accordingly, dismissed. No order as to cost (s).

Sd/-
(Sanjay K. Agrawal)
Judge

Deepti