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C.A.No. 7134 OF 2000
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ITEM NO.104 COURT NO. 4 SECTION IV

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 7134 OF 2000@@
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National Insurance Co. Ltd. ... Appellant (s)

Vs.

Roshan Arah & Ors. ... Respondent (s)

(With appln. for directions & with prayer for interim relief & OR)

Date: 07/02/2002 This/These matter(s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE ASHOK BHAN

For appellant (s) Mr. PP. Malhotra, Sr. Adv.
Mr. Shailendra Sharma, Adv.
Mr. Rajiv Nanda, Adv.

For respondent (s) Mr. SS. Khanduja, Adv.
No.9

For 1,2, 4-8 Ms. K. Sharda Devi, Adv.

UPON hearing counsel, the Court made the following
O R D E R

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Mr. PP Malhotra, learned senior counsel appearing for the appellant started his arguments at 12.20 p.m. and concluded at 12.40 p.m. Thereafter Mr. SS Khanduja and Ms. K. Sharda Devi made their submissions for ten minutes. Hearing concluded. The Court dictated an order allowing the appeal.

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(Neelam Kawatra) (S. Krishnan)
Court Master Court Master

Signed order is placed on the file.

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7134 OF 2000

National Insurance Co. Ltd. .. Appellant

-versus-

Roshan Arah & Ors. .. Respondents

O R D E R

Against the judgment of the M.P. Motor Accident Claims Tribunal awarding compensation to the respondents, the appellant has preferred an appeal before the High Court. The High Court dismissed the appeal without giving any reason. It is against the said judgment, the appellant has come up in appeal before this Court by way of special leave petition.

When this matter was taken up, learned counsel appearing for the appellant urged that in the present case, the appellant-National Insurance Company was not liable to pay the compensation on the ground that the driver of the offending vehicle had a fake licence. Learned counsel relied upon a decision of this Court in New India Assurance Co. Shimla vs. Kamla & Ors. reported in (2001) 4 SCC 342, in support of his argument.

After we heard the matter, we find that the argument raised by the counsel helps the case of the appellant only when it is found by the High Court that the driver of the vehicle had fake driving licence. The High Court has dismissed the appeal of the appellant without giving any reasons or recording any finding whether the driving licence of the driver was fake one. For that reason, we feel it appropriate to send the matter back to the High Court for hearing the appeal on merits. In that view of the matter, the order under challenge is set aside. The matter is sent back to the High Court to decide the appeal in accordance with law.

Before we part with the case, we would like to observe that during the pendency of the appeal, the appellant has already paid 50% of the compensation to the claimants. Learned counsel appearing for the appellant stated that the appellant shall not claim any refund of the said amount even if the appeal is allowed by the High Court.

The appeal is allowed.

& & & & & & & .J.
(V. N. Khare)

& & & & & & & .J.
(Ashok Bhan)

New Delhi;
February 07, 2002

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