

13.01.2025

Present: **Advocate** Sh. K.K. Dubey for claimants.
Advocate Ms. Manju Sehrawat, Ms. Shivangi Kaushik and Ms. Yukta Verma for TATA AIG General Insurance Co. Ltd.
Advocate Sh. Ajeet Kumar, proxy for Advocate Shri Mehtab Singh for proposed ICICI Lombard General Insurance Co. Ltd.

Submissions heard.

Claimants being dependants of Late Rakesh Tomar have approached Claims Tribunal, South West, Dwarka seeking compensation for death of victim in motor vehicle accident by impleading (i) Narender Kumar (driver-cum-owner) AND (ii) TATA AIG General Insurance Co. Ltd. (insurer).

Claim petition has been opposed by insurance company by contending that deceased Rakesh Tomar has died in accident after the car struck against the Trolley of the Tractor and deceased himself was responsible for causing the accident.

Issues have been settled on 01.08.2016 and examination-in-chief and cross-examination of PW-1 Smt. Santosh has been recorded on 22.01.2018.

Application under Order I Rule 10 read with 151 CPC for impleading owner and insurer of vehicle/car bearing No. DL-1YD-9694 has been filed on 24.01.2019 and reply opposing application has been filed by ICICI Lombard General Insurance Co. Ltd. by adverting to well settled law that where two vehicles are involved in the accident, the claimant has the option to claim compensation from the driver, owner and insurer of either of the vehicles or both vehicles involved in the accident.

Contd...2/-

I have considered their submissions.

Hon'ble Supreme Court of India in ***Khenyei Vs. New India Assurance Co. Ltd. & Ors.*** Civil Appeal No. 4244 of 2015 has held that plaintiff/claimant is entitled to sue both or any one of the joint tortfeasors to recover the entire compensation as liability of joint tortfeasor is joint and several.

Aforesaid ruling has been thereafter followed by Hon'ble High Court of Delhi in ***Oriental Insurance Co. Ltd. Vs. Mamta & Ors.*** in MAC. APP No. 429/2023 decided on 06.10.2023.

Since claimants being *Dominus Litis* have filed application seeking compensation from driver-cum-owner AND insurer of Tractor No.HR-12X-9444 so application under Order I Rule 10 read with 151 CPC filed by TATA AIG General Insurance Co. Ltd. for impleading owner and insurer of Car No. DL-1YD-9694 is not maintainable and is accordingly dismissed.

Put up on **03.03.2025** for remaining PE.

(Tarun Yogesh)
PO, MACT-01, Dwarka Courts,
New Delhi/13.01.2025