



2026:CGHC:8918

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 76 of 2024**

* - Branch Manager (Insurance Company) ICICI Lombard General Insurance Company Ltd. Office Ground Floor, Vanijya Bhavan, Devendra Nagar Road, Raipur (C.G.), (Non-Applicant No. 3)

... Appellant**Versus**

1 - Dhanwanti Yadav W/o Late Vinay Kumar Aged About 48 Years (Wife Of Deceased), R/o Gram Dhondha, Thana And Tehsil Pratappur, District Surajpur (C.G.)

2 - Sunil Kumar Yadav S/o Late Vinay Kumar Aged About 30 Years (Son Of Deceased). R/o Gram Dhondha, Thana And Tehsil Pratappur, District Surajpur (C.G.)

3 - Sujeet Kumar Yadav S/o Late Vinay Kumar Aged About 26 Years (Son Of Deceased). R/o Gram Dhondha, Thana And Tehsil Pratappur, District Surajpur (C.G.)

4 - Ramkewal Yadav S/o Babulal Aged About 70 Years (Father Of Deceased). R/o Gram Dhondha, Thana And Tehsil Pratappur, District Surajpur (C.G.)

5 - Heera Kuwar W/o Shri Ramkewal Aged About 65 Years (Mother Of Deceased). R/o Gram Dhondha, Thana And Tehsil Pratappur, District Surajpur (C.G.),

...(Claimants)

6 - Kamalram Sahu S/o Shri Bhagwandas Sahu Aged About 35 Years (Driver), R/o Navatola, Tehsil - Odgi, District Surajpur (C.G.)

7 - Gorelal Sahu S/o Shri Bahgwandas Sahu (Owner Of The Vehicle), R/o Navatola, Tehsil - Odgi, District Surajpur (C.G.)

... Respondents

For Appellant / Insurance :
Company

Mr. Palash Agrawal, Advocate
holding the brief of Mr. Shekhar Rao
Saheb Amin, Advocate

For Respondents No. 1 to 5 / :
Claimants

Ms. Aditi Tripathi, Advocate holding
the brief of Mr. D.N. Prajapati,
Advocate



For Respondents No. 6 and 7 : None, though served

Hon'ble Shri Justice Rakesh Mohan Pandey
Judgment on Board

19/02/2026

1. The appellant/insurance company has filed this appeal against the award dated 28.10.2023 passed by the learned Additional Motor Accident Claims Tribunal, Pratappur, District Surajpur in Claim Case No.56/2021, whereby the learned Tribunal awarded compensation to the tune of Rs. 34,24,837/- to the claimants with a direction to the insurance company to indemnify the award first and thereafter recover it from driver and owner.
2. Brief facts are that on 23.05.2021, the deceased, Vinay Kumar Yadav was going towards Village Navatola as a pillion rider on a motorcycle belonging to respondent No.7, bearing registration UP-64-AK-2506. The rider of the offending vehicle, by driving it rashly and negligently, collided with a buffalo, as a result, the deceased sustained grievous injuries and subsequently died during the course of treatment.
3. The claimants filed Claim Case under Section 166 of the Motor Vehicles Act before the learned Claims Tribunal claiming Rs. 42,92,222/- as compensation. The driver, owner, and Insurance Company filed reply denying the claim averments. Issues were framed, evidence was led by the parties, and thereafter the impugned award was passed. The learned Tribunal fastened liability on the driver and owner, and directed the Insurance Company to indemnify the award first and thereafter recover the same from the owner and driver.
4. Learned counsel for the appellant would submit that the impugned award is contrary to law facts on record, and the terms and conditions



of the insurance policy. He would further submit that the the Insurance policy pertaining the offending vehicle was a “Liability Only Policy” (Act Only Policy), and the deceased was a pillion rider. No additional premium was paid to cover the risk of a pillion rider, therefore, the deceased does not fall within the category of a third party covered under the said insurance policy. He would argue that in the absence of payment of extra premium for covering the risk of a pillion rider, the Insurance Company cannot be fastened with liability to indemnify the award.

He would contend that the direction compelling the Insurance Company to pay compensation is illegal, arbitrary and unsustainable in law, particularly in view of the policy being an Act Only policy and the deceased being an uncovered pillion rider; hence, the impugned award deserves to be set aside.

5. On the other hand, learned counsel appearing for the claimants would support the award passed by the learned Claims Tribunal.
6. I have heard learned counsel appearing for the respective parties.
7. In the instant case, the deceased was a pillion rider.
8. In the matter of ***Branch Manager, National Insurance Co. Ltd. Vs. Dilip and others*** reported in ***2020 ACJ 228***, the coordinate Bench of this Court placing reliance on the judgment passed by the Hon’ble Supreme Court held in case of ‘liability only policy’, liability cannot be fastened with the Insurance Company on account of death of pillion rider. The relevant paragraph no. 16 is reproduced herein below:-

“16. In the light of the above law laid down by the Hon’ble Apex Court, if we consider the facts of the case in hand, indisputably the insurance policy of the offending vehicle is a ‘liability only policy’ and not a ‘comprehensive policy’ and, therefore, the



liability to pay compensation in respect of death of a pillion rider cannot be fastened on the appellant insurance company. Reliance placed by learned counsel for the respondent No. 3 in the matter of *United India Insurance Co. Ltd. v. Pramila Devi, 2010 ACJ 1402* (Chhattisgarh), is misplaced one for the reason that in the said case the policy was a comprehensive policy and not the liability only or Act only policy.”

9. In the present case, liability has been fastened with the owner of the offending vehicle with stipulation that the amount of compensation shall be indemnified by the Insurance Company first and the Insurance Company would be at liberty to recover it. Thus, liability has not been fastened with the Insurance Company and facts of cited case are different.
10. Taking into consideration the fact that the learned Claims Tribunal exonerated the Insurance Company and fastened liability with the owner of the vehicle, but directed the Insurance Company to satisfy and recover from the owner and driver of the offending vehicle, I do not find any good ground to interfere with the judgment and award dated 28.10.2023 passed by the learned Claims Tribunal. Accordingly, the appeal fails and is hereby **dismissed**.
11. Cross-Objection under Order 41 Rule 22 of CPC has been filed by respondents No. 6 and 7 (driver and owner of the offending vehicle).
12. It is admitted fact that no premium was paid to cover liability of pillion rider and that was the reason, the learned Claims Tribunal fastened liability with the driver and owner of the offending vehicle. The driver and owner of the offending vehicle could not establish the fact that extra premium was paid to cover life of the pillion rider. It is also not in dispute that there was act only policy, therefore, in my opinion, the



learned Claims Tribunal rightly fastened the liability with the driver and owner of the offending vehicle. Accordingly, cross-objection is also **dismissed.**

Sd/-
(Rakesh Mohan Pandey)
Judge

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