



2026:CGHC:13978

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 1464 of 2015**

- The Oriental Insurance Co. Ltd. Through Its Divisional Manager, Division Office, 1st Floor, Rama Trade Centre, Near Bus Stand, Bilaspur, Civil And Revenue District Bilaspur Chhattisgarh, Pin 495001.....Non Applicant No. 3.

...Appellant**versus**

1. Erraram Baghel (Died and Deleted) as per Honble Court Order Dated 31-07-2025 and 06-11-2025.
2. Sanjay Kashyap S/o Tiwas Kashyap, Aged About 39 Years At Railway Road, Near Atithi Lodge, Jagdalpur, District Bastar Chhattisgarh....Driver
3. Anupam Chaudhary S/o A. B. Chaudhary, Aged About 52 Years, near New Bus Stand, Jagdalpur, District Bastar, Chhattisgarh.....Owner

... Respondents

For Appellant	:	Mr. Akash Shrivastava, Advocate.
For Respondent No.2	:	None
For Respondent No.3	:	Mr. Vikash A. Shrivastava, Advocate.

Hon'ble Shri Justice Radhakishan Agrawal**Judgment on Board****23/03/2026**

1. This appeal has been preferred by the Appellant/insurance company under Section 173 of the Motor Vehicles Act, 1988 against the award dated 08.07.2015 passed by the 3rd Additional Motor Accident Claims Tribunal, Bastar place at Jagdalpur, C.G. in Claim Case No.137/2012, whereby the learned Claims Tribunal has awarded compensation to the claimant to the tune of Rs.3,00,000/- @ of 9 % per annum against the Non-applicants jointly and severally, however, fastened the primary liability upon Non-applicant No.3/insurance company.
2. As per averments made in the claim petition, on 08.07.1998, the deceased Gangaram was going on cycle to his house at Poddam. At time time, a jeep bearing registration No.MP-25/B/0905 (hereinafter referred to

as 'the offending vehicle') which was coming from Sukma being driven by Non-applicant No.1 – Sanjay Kashyap (Respondent No.2 herein) rashly and negligently, dashed the cycle. As a result of the said accident, Gangaram received serious injuries and died thereafter. At the time of accident, the offending vehicle was owned by non-applicant No.2 – Anupam Chaudhary and insured with non-applicant No.3 – Branch Manager, The Oriental Insurance Company Limited.

3. On claim petition being filed by the claimant seeking compensation to the tune of Rs.6,51,500/- on various heads, *inter alia*, stating that at the time of accident, deceased- Gangaram was aged about 12 years, the learned Tribunal, after considering the evidence led by the parties, passed an award as mentioned in paragraph 1 of this judgment.
4. Learned counsel for the appellant/insurance company submits that the impugned award passed by the learned Tribunal is erroneous and contrary to law. He further submits that FIR (Ex.P-1) has been filed against the driver of a vehicle bearing registration No. MP25/5222 (name of driver is not mentioned) under Section 304-A of the Indian Penal Code, 1860. He further submits that the police, after investigation has filed a charge-sheet wherein report has been made against Sanjay Kashyap/Non-applicant No.1 – driver of vehicle bearing registration No.MP-25/B/0905. As such, looking to the FIR, the alleged accident has not been committed by the offending vehicle bearing No.MP-25/B/0905. Therefore, the learned Claims Tribunal has erred in holding that the offending vehicle has caused the alleged accident due to which the deceased died. Thus, the impugned award passed by the learned Tribunal with regard to fastening of liability upon the insurance company is liable to be modified and the same need to be set aside accordingly.

5. Learned counsel for the respondent No.3/owner of the offending vehicle submits that the learned Claims Tribunal has rightly fastened the liability upon the insurance company and passed the impugned award, which requires no interference by this Court.
6. Heard learned counsel for the parties and perused the record.
7. Now the question that arises for consideration is whether the Tribunal was justified in fastening the liability upon the Non-applicant No.3/insurance company (appellant herein)?
8. As per the claim petition, the deceased died on account of rash and negligent driving by Non-applicant No.1/Sanjay Kashyap, driver of the vehicle bearing registration No.MP25/B/0905 (offending vehicle). However, as per the FIR (Ex.P-1), lodged by the complainant Hirma Ram, it is reported that the alleged accident has been occurred by the driver of a vehicle bearing registration No.MP25/5222 (name of driver is not mentioned). Hirma Ram (AW-2) in his examination-in-chief has stated that on the date of accident, Gangaram (deceased) was going to his left when a jeep struck him. The said jeep dragged him along with his bicycle for approximately 30 meters and at that time he was following him from behind in his cycle. He further stated that he picked up the deceased and went to village Pavela. At that time, he did not know the number of the vehicle that caused the said accident and next day he found out the number of the vehicle from other information/source. He further stated that according to the persons who were at the toll barriers, a jeep bearing registration No.MP25/5222 went towards the roads and three other vehicles followed it, and after that he went to police station and stated the said vehicle number before the police while lodging the FIR. Then, after 10-15 days he was told that the alleged accident occurred by vehicle number MP-25/B/0905. He further stated that the offending vehicle was

being driven by Sanjay Kashyap. On perusal of statement of the complainant, it appears that the registration number of the vehicle MP25/5222 was lodged before the police station only on the basis of mere information received from the persons standing at toll barriers, this apart, at that time, some other vehicles were also following the said vehicle, therefore, it is not specifically clear that the alleged accident occurred with the vehicle bearing registration No.MP25/5222.

9. Furthermore, after the alleged accident took place, the police during the investigation, prepared seizure memo (Ex.P-4) wherein a vehicle bearing registration number MP/25/B/0905, copy of its insurance policy, copy of R.C. Book and copy of driving license of driver Sanjay Kashyap has been seized. On the basis of the further investigation, a charge-sheet has been filed by the police, wherein it has been specifically reported that the accident has been caused by Non-applicant No.1-Sanjay Kashyap i.e. driver of the offending vehicle bearing registration No. MP25/B/0905. As such, it is clear from the charge-sheet that the driver Sanjay Kashyap was driving the offending vehicle in a rash and negligent manner, as a result of which the accident occurred and the deceased died. This apart, the insurance company has not examined the investigating officer in its behalf, nor the driver of the offending vehicle has been examined.

10. In this regard, the Hon'ble Supreme Court in the matter of *Ranjeet & Anr. Vs Abdul Kayam Neb & Anr.* in Civil Appeal which arises out of SLP(C) No.10351/2019 vide order dated 25.02.2025 has held in para 4 which reads as under:-

“4. It is settled in law that once a charge sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eyewitnesses are not examined, that will not be fatal to prove the death

of the deceased due to negligence of the bus driver.”

11. Moreover, on the basis of criminal trial initiated against the Sanjay Kashyap/driver of the offending vehicle bearing registration No.MP25B/0905, the Court of Judicial Magistrate First Class, Sukma, District – Dantewada, vide judgment dated 11.07.2000 (Ex.P-6) also convicted him under Section 304-A of the IPC and sentenced him R.I. for six months with fine of Rs.500/- which shows the involvement of Non-Applicant No.1 and the offending vehicle in the alleged accident.

12. Returning to the facts of the present case in the light of aforesaid decisions of Supreme Court, it is quite vivid from the overall evidence available on record that the details of the offending vehicle which is mentioned in the charge-sheet, is involved in the alleged accident, which was driven by Non-applicant No.1/Sanjay Kashyap in a rash and negligent manner, due to which the deceased died. This apart, the driver-Sanjay Kashyap has already been convicted by the Trial Court under Section 304-A of IPC and sentenced thereunder. Further, the offending vehicle was duly insured with the Non-Applicant No.3/insurance company on the date of accident, and the insurance company could not prove any breach of policy condition, nor produced any cogent and clinching evidence to prove its case, this Court is of the opinion that the findings recorded by the learned Claims Tribunal fastening liability upon the the insurance company, is a finding of facts based on evidence available on record, which requires no interference by this Court.

13. Accordingly, the appeal filed by the insurance company being without substance, is liable to be and is hereby dismissed.

Sd/-

(Radhakishan Agrawal)
Judge