



2026:CGHC:21370

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 344 of 2019**

**1** - Radheshyam Kaushik S/o Shri Goverdhan Prasad Kaushik Aged About 49 Years R/o Village Chhatauna, Police Station Chakarbhatha, District Bilaspur Chhattisgarh.....Owner Of Motor Cycle Hearing No. C G 10 X 5293.

**2** - Deviprasad Kaushik (Died And Deleted) As Per Hon'ble Court Order Dated 19/09/2025 And 22/01/2026

**--- Appellants****versus**

**1** - Smt. Kaushil Bai W/o Harprasad Dongare Aged About 49 Years R/o Village Amsena, Police Station Hirri, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

**2** - Harprasad S/o Jahil Prasad Aged About 53 Years R/o Village Amsena, Police Station Hirri, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

**3** - National Insurance Company Limited Through Divisional Manager, Division Office Taha Complex, Vyapar Vihar Road, Bilaspur District

Bilaspur Chhattisgarh.....Insurer Of Motor Cycle Bearing  
No. C G 10 X 5293., District : Bilaspur, Chhattisgarh

--- Respondent(s)

**MAC No. 1721 of 2019**

1 - Smt. Kaushil Bai W/o - Harprasad Dongre Aged About 46 Years R/o -  
Village Amsena, Police Station Hirri, District Bilaspur Chhattisgarh,  
District : Bilaspur, Chhattisgarh

2 - Harprasad S/o -Jahil Prasad Aged About 50 Years R/o - Village  
Amsena, Police Station Hirri, District Bilaspur Chhattisgarh

---Appellants

**Versus**

1 - Devi Prasad Kaushik S/o -Radheshyam Kaushik Aged About 19 Years  
R/o - Village Chhatauna, Police Station Chakarbhata, District Bilaspur  
Chhattisgarh ( Driver Of Motorcycle No. C.G. - 10-X-5293), District :  
Bilaspur, Chhattisgarh

2 - Radheshyam Kaushik Radheshyam Kaushik Aged About 46 Years R/o -  
Village Chhatauna, Police Station Chakarbhata, District Bilaspur  
Chhattisgarh (Owner Of Motorcycle No. C.G.-10x-5293), District :  
Bilaspur, Chhattisgarh

3 - National Insurance Company Limited, Through The Divisional  
Manager, Divisional Office-Taha Complex, Vyapar Vihar Road Bilaspur  
Chhattisgarh (Insurer Of Motorcycle No. C.G.-10x-5293), District :  
Bilaspur, Chhattisgarh

--- Respondent(s)

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For Claimants	: Mr. Saksham Soni on behalf of Mr. Rajnish Singh Baghel, Advocates
For Owner	: Mr. R.K. Kesharwani, Advocate
For Insurance Company	: Mr. Qamrul Aziz, Advocate

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**SB - Hon'ble Shri Justice Sanjay K. Agrawal**

**Judgment on Board**

**07.05.2026**

1. Since common question of law and fact is involved in both these appeals as they have arisen out of a common accident, therefore, they have been clubbed together, heard together and are being decided by this common judgment.
2. These appeals under Section 173 of the Motor Vehicles Act, 1988 have been preferred against the impugned award dated 05/12/2018 (Annexure A/1) passed by the Member, Additional Motor Accidents Claims Tribunal, Bilaspur in Claim Case No. 227/2017 whereby compensation of Rs. 5,00,000/- has been awarded in favour of the claimants and the liability of payment of compensation has been fastened upon the owner and driver of the vehicle. MAC/344/2019 has been preferred by the owner and driver, however, during the pendency of the appeal, the driver of the vehicle died and his name has been deleted

whereas MAC/1721/2019 has been preferred by the claimants seeking enhancement of compensation.

3. Mr. R.K. Kesharwani, learned counsel for the appellant/owner in MAC/344/2019, would submit that though the driver namely Deviprasad Kaushik did not have valid and effective driving license on the date of the accident, yet the Claims Tribunal could not have exonerated the Insurance Company and at the best, in view of the decision rendered by the Supreme Court in the matter of **National Insurance Co. Ltd. v. Swaran Singh and Others**<sup>1</sup>, the Claims Tribunal ought to have applied the principle of pay and recover.
4. Learned counsel for the appellants/claimants in MAC/1721/2019 would submit that the compensation awarded by the Claims Tribunal is on the lower side, therefore, it may suitably be enhanced.
5. Learned counsel for the respondent/Insurance Company would support the impugned award and submit that the instant appeals are liable to be dismissed.
6. I have heard learned counsel for the parties, considered their submissions made herein-above and went through the records with utmost circumspection.

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1 (2004) 3 SCC 297

**7.** A careful perusal of the record would show that compensation of Rs. 5,00,000/- has been awarded in favour of the claimants for the death of Sandeep Dongre, aged about 14 years and the liability of payment of compensation has been fastened upon the owner and driver of the offending vehicle holding that on the date of the accident, the driver of the offending vehicle namely Deviprasad Kaushik did not have valid and effective driving license on the date of the accident.

**8.** Owner of the offending vehicle i.e. Radheshyam Kaushik (NA.W.-1) has himself deposed before the Court that on the date of the accident, driver Deviprakash Kaushik did not have valid and effective driving license. Moreover, the Officer of the Insurance Company namely Ankit Dalal (NA.W.-2) has also stated that since driver Deviprakash Kaushik did not have valid and effective driving license on the date of the accident, therefore, the vehicle was being plied in breach of terms and conditions of the insurance policy (Ex. D/11) and therefore, the Insurance Company would not be liable to pay any compensation. As such, the Claims Tribunal has rightly exonerated the Insurance Company and fastened the liability of payment of compensation upon the owner and driver of the vehicle. However, in light of the principle of law laid down by their Lordships of the Supreme

Court in the matter of National Insurance Co. Ltd. v. Swaran Singh and Others<sup>2</sup>, the principle of pay and recover could have been applied by the Claims Tribunal whereby the Insurance Company ought to have been directed to firstly pay the compensation to the claimants and thereafter, recover it from the owner and driver of the vehicle.

9. So far as the quantum of compensation is concerned, the Claims Tribunal has held that since the deceased was 14 years of age at the time of the accident, therefore, the claimants would be entitled to compensation of Rs. 5,00,000/-, which is a correct finding of fact based on evidence available on record and the compensation so awarded by the Claims Tribunal is just and proper and does not warrant any interference by this Court. It is submitted by learned counsel for the appellant/owner in MAC/344/2019 that 50% of the compensation amount has already been deposited by them. As such, the Insurance Company is directed to firstly pay the rest of the 50% of compensation amount to the claimants and thereafter, recover it from the owner of the vehicle.

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2 (2004) 3 SCC 297

**10.** Accordingly, the impugned award is modified to the extent indicated herein-above and both the appeals are hereby disposed of with the aforesaid direction.

Sd/-  
**(Sanjay K. Agrawal)**  
**Judge**

Harneet