2026:CGHC:14851

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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 385 of 2022

1 - The New India Insurance Company Limited Garment Of India, Bilaspur, District Bilaspur (Chhattisgarh) Through Authorized Signatory, Manager Suit Legal Hub, 2nd Floor, Rama Trade Centre, Above Axis Bank, Opposite Rajiv Plaza, Old Bus Stand Road, Bilaspur (Chhattisgarh), District : Bilaspur, Chhattisgarh

... Appellant

versus

1 - Minor Shiva Kashyap S/o Rajaram Aged About 7 Years Minor Shiva Kashyap Through His Natural Guardian Father Rajaram Aged 28 Years, S/o Dhnau, Caste Kashyap, R/o Akaltara, P.S. Janjgir, Tahsil Janjgir District Janjgir Champa (Chhattisgarh), District : Janjgir-Champa, Chhattisgarh

2 - Ramnarayan Binjhwar S/o Shyamlal Binjhwar Aged About 34 Years R/o Karma, P.S. Pantora, Tehsil Balaoda, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

3 - Siddhart (Construction) C/o Saurabh Sharma R/o Near Ganesh Talkies Main Road, Naila, P.S. Janjgir, District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

... Respondents

For Appellant	:	Shri B.N. Nande, Advocate
For Respondent No.1	:	Shri Devendra Kashyap, Advocate on behalf of Shri P.K. Patel, Advocate
For Respondent No.3	:	Shri V.P. Shrivas, Advocate
For Respondent No.2	:	None

Hon'ble Shri Justice Sachin Singh Rajput

Order on Board

30/03/2026

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the MV Act') has been filed being aggrieved by the award dated 25.10.2021 passed by the 1st Additional Motor Accidents Claims Tribunal, Janjgir-Champa (Chhattisgarh) (for short 'Claims Tribunal') in Claim Case No.54 of 2021.

2. By the award impugned, the learned Claims Tribunal has awarded compensation of Rs.10,19,819 to respondent No.1/claimant on account of injuries sustained by him in an accident that occurred on 13.3.2020 by rash and negligent driving of the offending vehicle Hyva bearing registration No.CG 11 AA 9620 driven by respondent No.2, owned by respondent No.3 and insured with the appellant.

3. As per pleadings of the claim application, on account of rash and negligent driving of the offending vehicle, respondent No.1 sustained serious injuries including amputation of his leg. Thus, claiming compensation of Rs.55,25,000, the claim application under Section 166 of the MV Act was filed.

4. The claim application was resisted by the respondents on various counts including the insurance company taking a plea of violation of terms and conditions of the insurance policy. Learned Claims Tribunal having framed issues decided the same in favour of respondent No.1 and awarded the above stated compensation. The Claims Tribunal also found that there is no violation of terms and conditions of the insurance policy. Thus, the appellant was held liable to pay the compensation.

5. Learned counsel for the appellant/insurance company submits that the offending vehicle is a heavy goods vehicle and there was no permit of the offending vehicle. Even the driver of the offending vehicle was not holding a valid and effective driving licence. He further submits that the necessary papers to demonstrate the factum of validity of licence were received by the appellant/insurance company and they were put on record, however, no further opportunity to lead evidence was granted to the appellant to prove the same. He further submits that the owner has also admitted that there was no permit of the offending vehicle. As the insurance company could not prove the above stated defence before the Claims Tribunal by leading cogent and prudent evidence, the application under Order 41 Rule 27 of the Code of Civil Procedure has been filed along with a report of the investigator with regard to licence of respondent No.2 and extract of driving licence obtained from the Transport Department, Government of Chhattisgarh. Even otherwise, as there was no permit, the appellant ought to have been exonerated from paying the compensation and also copy of the permit which *prima facie* goes to show that the permit was effective from 18.3.2020 to 17.3.2025. Thus, he submits that the application may be allowed and the additional evidence may be taken in appeal.

6. Opposing the above submission, learned counsel appearing for respondent No.1/claimant and respondent No.3/owner jointly submit that the documents relied upon by the appellant/insurance company could have been placed before the learned Claims Tribunal, which the appellant failed to do so. Thus, this appeal cannot be allowed as the defence taken by the insurance company could not be proved by leading cogent and prudent evidence. They submit that the application has no merit and is liable to be dismissed.

7. I have heard learned counsel appearing for the parties and perused the record of the learned Claims Tribunal with due care.

8. This Court would like to first deal as to whether the application filed under Order 41 Rule 27 of the Code of Civil Procedure for taking additional evidence on record can be allowed or not. The application is supported by an affidavit. It has been stated in the application that when the notice of the claim application was received by the appellant/insurance company, no document was submitted along with it and ultimately on 29.9.2021 the documents with regard to permit, fitness and driving licence were received by the investigator of the insurance company. The investigation report was received by the insurance company on 30.10.2021 and prior to that the award could have been passed.

The defence which appears to have been put forth by the insurance company that the offending vehicle was driven by the driver without any valid and effective driving licence, the offending vehicle being heavy goods vehicle required to have a valid and effective permit. Taking into consideration the above stated facts and in order to do complete justice by allowing the insurance company to prove its defence, in the opinion of this Court, the application may be allowed. Thus, the application is allowed and the documents are taken on record. However, in the opinion of this Court, ends of justice would be served if the matter is remanded back to the learned Claims Tribunal for decision making permitting the appellant/insurance company to lead proper evidence in order to prove its defence with regard to validity of licence and permit of the offending vehicle. Thus, this Court is inclined to remit back the matter by setting aside the impugned award. The remand is only made in respect of proving the defence of the insurance company and not with any other respect. The parties are directed to appear before the learned Claims Tribunal on **12.5.2026** permitting the appellant/insurance company to lead evidence to prove its defence.

9. This Court vide its interim order directed the insurance company to deposit 50% of the awarded amount. As respondent No.1 has suffered severe injuries, it is hereby directed that the appellant/insurance company shall deposit the entire amount as awarded by the learned Claims Tribunal before the Claims Tribunal on or before the date of appearance fixed by this Court.

10. The learned Claims Tribunal shall decide the issue relating to violation of terms and conditions of the insurance policy (issue No.3) and thereafter pass appropriate orders. The amount of compensation shall not be reduced by the learned Claims Tribunal.

11. The instant appeal is allowed in part to the extent indicated above. Record of the Claims Tribunal be sent back along with a copy of this order forthwith.

12. It is expected that the learned Claims Tribunal shall decide the matter within a period of six months from 12.5.2026.

Sd/-

(Sachin Singh Rajput)
JUDGE

Gopal