



2025:CGHC:33153

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 466 of 2019**

- Branch Manager, New India Insurance Company Limited Branch Office Aakashvani Raod, Gandhi Nagar Ward M.M. Tower Jagdalpur District Bastar Chhattisgarh Through Authorized Signatory, The New India Assurance (Insurance) Company Limited, Divisional Office Bilaspur Chhattisgarh.

--- Appellant/Non-applicant No. 3**versus**

1. Smt. Malti Nag W/o Balsing Nag Aged About 30 Years R/o Bodaras Post And Police Station Kukanar Tehsil Darbha District Bastar Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh

-----Applicant/ Claimant

2. Manish Kumar Baghel S/o Shri Nageswar Baghel Aged About 22 Years R/o Village Chindwada Police Station Darbha District Bastar Chhattisgarh Present Address Leda Police Station Tomgpal District Sukuma Chhattisgarh **(Driver) Non-applicant No. 1**
3. Shanker Kashyap S/o Laikhan Kashyap R/o Village Koypal Vijaynathpara Police Station Parpa District Bastar Chhattisgarh. **(Owner) Non-applicant No. 2**

--- Respondents**WITH****MAC No. 468 of 2019**

- Branch Manager, Branch Manager New India Insurance Company Limited, Branch Officer, Aakashvani Road, Gandhi Nagar Ward M.M. Tower Jagdalpur District Bastar Chhattisgarh Through Authorised Signatory, The New India Assurance (Insurance), Company Limited, Divisional Office Bilaspur Chhattisgarh.

---Appellant/non-applicant No. 3**Versus**

1. Smt. Deve (Mandavi)(Madavi) W/o Late Budhara Aged About 43 Years
2. Ganga Mandavi S/o Late Budhara Aged About 23 Years



3. Kosa Mandavi S/o Late Budhara Aged About 21 Years
4. Lakhma Mandavi S/o Late Budhara Aged About 18 Years
All are R/o Village Lakhapal, Post Office And Police Station Katekalyan,
District South Bastar Dantewada Chhattisgarh.
5. Manish Kumar Baghel S/o Shri Nageshwar Baghel Aged About 22 Years R/o
Village Chindwada Police Station Darbha District Bastar Chhattisgarh
Present Address Leda Police Station Tomgpal District Sukma Chhattisgarh.
(Driver).
6. Shanker Kashyap S/o Laikhan Kashyap R/o Village Koypal Vijaynathpara
Police Station Parpa District Bastar Chhattisgarh. (Owner).

--- Respondent(s)

For Appellant-Insu. Co.	: Mr. B.N. Nande, Advocate
For Respondents-Claimants	: Mr. Praveen Kumar Tulsyan, Advocate

Hon'ble Shri Justice Parth Prateem Sahu

Judgment On Board

09/07/2025

1. As both the cases arise out of the same accident and the appeals are filed by the Insurance Company under Section 173 of the Motor Vehicles Act, 1988 (for short "Act of 1988") challenging the impugned award passed in two different claim cases on the ground of fastening of liability, both the appeals are heard together and decided by this common judgment.
2. MAC No. 466 of 2019 is an appeal challenging the impugned award dated 10.10.2018 passed in claim case No. 25/2016, whereby the Claims Tribunal has allowed the claim application filed under Section 166 of the Act, 1988 by the injured claimant and awarded ₹ 1,56,500/- as compensation.
3. In MAC No. 468 of 2019, appellant-Insurance Company has challenged the award dated 10.10.2018 passed in claim case no. 36/2016, whereby the Claims Tribunal allowed the application filed under Section 166 of the Act of 1988 and awarded compensation of ₹ 7,60,000/- against the death of late Budhara.
4. Facts of the case relevant for disposal of these appeal are that on 24.05.2015 Malti Nag (applicant) and Budhra were going to village Rokel on a



commander Jeep No. CG 17 ZT 0238 (hereinafter referred to as “offending vehicle”) driven by non-applicant No. 1- Manish Kumar Baghel. When they reached near Mahima Jodan turn, non-applicant No. 1 drove the vehicle rashly and negligently and caused accident due to which the vehicle overturned. In the accident, applicant Malti Nag and Budhra suffered grievous injuries over their hand and head. They took treatment in different hospitals. Due to the grievous injuries, applicant Malti Nag suffered permanent disability over her left hand, whereas Budhra succumbed to the injuries on 21.07.2016. Based on the report of the accident, Crime No. 14/2015 was registered in police station Kukanar.

5. Applicant-Malti Nag and claimants who are widow and children of the deceased Budhra filed applications under Section 166 of the Act of 1988 seeking ₹ 7,37,900/- and ₹ 13,04,000/- respectively as compensation on the basis of pleadings made therein.
6. Non-applicants No. 1 and 2/ driver and owner of the offending vehicle submitted their reply to the claim application, denying all the adverse pleadings made therein. It was further denied that the alleged accident occurred due to rash and negligent driving of offending vehicle but stated that while running of the vehicle on road, some cattles came on the road suddenly due to which the offending vehicle overturned in order to save them. It is further stated that on the date of accident non-applicant no. 1 was possessed with valid and effective driving licence and the offending vehicle was insured by non-applicant No. 3.
7. Appellant/ Non-applicant No. 3-Insurance Company submitted its reply to the application, denying all the adverse pleadings made therein. It was further pleaded that on the date of accident offending vehicle was plying in breach of policy conditions. Driver of the offending vehicle at the time of accident was



not possessing valid and effective driving licence. Thus the non-applicant No. 3-insurance company is not liable to pay any compensation, if awarded.

8. Learned Claims Tribunal upon appreciation of oral and documentary evidence brought on record by the respective parties, recorded that applicant Malti Nag suffered grievous injuries resulting in permanent disability and the deceased Budhara died because of grievous injuries suffered by him, in an accident arising out of rash and negligent driving of non-applicant No. 1 driver of offending vehicle. Breach of policy conditions was not found to be proved, calculated the amount and awarded compensation of ₹ 1,56,500/- in injury case and ₹ 7,60,000/- against the death of late Budhara.
9. Learned counsel for appellant-Insurance Company in both appeals would submit that the Claims Tribunal erred in fastening liability to satisfy the entire amount of compensation awarded by the Claims Tribunal in both the claim cases. He contended that it is not in dispute that the appellant-insurance company has issued the insurance policy for the offending vehicle covering the risk as mentioned therein for the period from 13.12.2014 to 12.12.2015. The accident is dated 24.05.2015 ie., within the period of existence of insurance policy. Perusal of copy of insurance policy which is produced in evidence as Ext. D-1 would show that it is "Private Car Liability Policy" and not the comprehensive or damage policy. Further it mentions that the insured has deposited an amount of ₹ 4,709/- as premium as per the schedule which is forming part of. Insurance policy, Ext. D-1 would show that the insured has paid the premium towards the Third Party of ₹ 4,109, Compulsory PA Premium for Owner Driver of ₹ 100, PA Premium for UnNamed/Hirer/Pillion Persons of ₹ 450, and Legal Liability Premium for Paid Driver of ₹ 50. The seating capacity in the vehicle is mentioned as 10 including driver, from which it can be ascertained that number of passengers who can travel in the vehicle is 9. The premium of ₹ 450 which is paid towards Personal Accident Premium for UnNamed/Hirer/Borrower is for 9



and therefore it will come ₹ 50 each of the passenger as per the seating capacity of the vehicle.

10. Learned counsel for appellant-insurance company during course of argument has referred the clause forming part of the insurance policy to submit that the premium charged for personal accident premium for unnamed persons is under IMT-16 and therefore IMT endorsement of 16 & 22 is specifically mentioned in the policy. He also submits that the risk under the IMT is mentioned in the policy will be covered according to the Indian Motor Tariff General Regulations. Referring to General Regulation-36 he would submit that under the said provision specific chart is formulated specifying the coverage of risk up to ₹ 2 Lakh when the premium of ₹ 100 is charged for the personal accident of unnamed persons travelling in private car. In the Regulation, it is further provided that scope of the cover, Capital Sum Insured and the annual premium payable under this Section would be as under:

DESCRIPTION OF BENEFITS	% OF CAPITAL SUM INSURED	PREMIUM FOR EVERY UNIT OF CSI OF Rs.10,000/- OR PART THEREOF (IN Rs)		
		<i>Pvt.Car</i>	<i>Mot.TwoWheeler</i>	<i>Com.Veh.</i>
i) Death only	100%	5	7	6
ii) Loss of Two Limbs or sight of two eyes or one limb and sight of one eye	100%	5	7	6
iii) Loss of one Limb or Sight of one eye	50%	5	7	6
iv) Permanent Total Disablement from injuries other than named above	100%	5	7	6

11. Referring to the above chart, it is argued that the coverage of risk for the premium of ₹ 5, the sum insured for covering risk would be ₹ 10,000/- and as ₹ 50 is charged per passengers and therefore coverage of risk would be ten times of the sum insured as mentioned in the chart ie., ₹ 1 Lakh. He submits that in view of the specification as mentioned in the policy specifying IMT-16 and 22, risk of the appellant-Insurance Company to indemnify the insured for unnamed person would be ₹ 1 Lakh only and not more, at the most.



12. In the aforementioned facts of the case, considering the Regulations as formulated under the Indian Motor Tariff Rules, I am of the considered view that the Claims Tribunal fell into error in fastening liability to satisfy the amount of compensation entirely upon the Insurance Company as awarded in both the claim cases which is erroneous and therefore the impugned award passed by the Claims Tribunal to the extent of fastening liability to pay entire compensation upon insurance company is modified and it is held that the Insurance Company is liable to satisfy the amount of compensation to the extent of ₹ 1 Lakh only in each case. The owner of the offending vehicle will be liable to satisfy the rest of the amount of compensation exceeding ₹ 1 Lakh in both cases.
13. At this stage, learned counsel for claimants would submit that as the claimants are poor villagers and in one of the appeals claimants have lost their bread winner, therefore, direction may be issued to appellant-Insurance Company to first pay the entire amount of compensation and thereafter to recover the amount of compensation exceeding ₹ 1 Lakh from the owner of the offending vehicle.
14. The said submission was objected by the counsel for appellant-Insurance Company on the ground that as the risk is not covered under the policy of more than ₹ 1 Lakh, therefore issuance of direction to satisfy the amount of compensation would not be proper.
15. I have heard learned counsel for the parties in this regard and also considered the decision of Hon'ble Supreme Court in the cases of **Manuara Khatun vs. Rajesh Kr. Singh** reported in (2017) 4 SCC 796, **Shivraj vs. Rajendra & Another**, reported in (2018) 10 SCC 432, **Amrit Paul Singh vs. TATA AIG General Insurance Co. Ltd.**, reported in (2018) 7 SCC 558.
16. Considering the facts and circumstances of the case, as the Insurance company has already deposited the entire amount of compensation pursuant to the interim order dated 06.03.2019 passed by this Court as also the



aforementioned decision of Hon'ble Supreme Court, I find it appropriate to direct the appellant-Insurance Company to recover the balance amount of compensation computed by the Claims Tribunal exceeding ₹ 1 Lakh from the owner of the offending vehicle. For recovery of amount of compensation, so deposited by the appellant-Insurance Company, from the owner of the offending vehicle will not be required to file separate proceeding but can be recovered in the same proceeding by filing execution proceeding as held by Hon'ble Supreme Court in the case of **Oriental Insurance Company Limited v. Nanjappan** reported in (2004) 13 SCC 224.

17. For the foregoing discussion, the appeals are allowed to the extent as indicated herein-above. Rest of the conditions of the impugned award shall remain intact.

Sd/-
(Parth Prateem Sahu)
Judge