2026:CGHC:12807

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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 570 of 2022

1 - Surendra Singh Rajput S/o Roop Singh Rajput, Aged About 52 Years R/o H.No. 73, Ward No. 27, I.T.I. Colony, Ambedkar Nagar, Sindhi Colony, Raigarh Tahsil And, District : Raigarh, Chhattisgarh

2 - Smt. Sumitra Singh Rajput W/o Surendra Singh Rajput Aged About 44 Years R/o H.No. 73, Ward No. 27, I.T.I. Colony, Ambedkar Nagar, Sindhi Colony, Raigarh Tahsil And, District : Raigarh, Chhattisgarh

... Appellants

versus

1 - Jashvant Singh S/o Hakim Singh Aged About 29 Years R/o Gram Maakhanpur, Post Khedahelu, Thana Chaubiya, District - Itawa (U.P.) Present Address -House No. 73, Ward No. 27, I.T.I. Colony, Ambedkar Nagar, Sindhi Colony, Raigarh Tahsil And, District : Raigarh, Chhattisgarh

2 - United India Insurance Co. Ltd. Through Branch Manager, Shanti Palace, Near Sarla Vila Chakardhar Nagar Chouk, Tahsil And, District : Raigarh, Chhattisgarh

... Respondents

(Cause title, as taken from CIS)

For Appellants	:	Mr. Akash Shrivastava, Advocate.
For Respondent No. 2	:	Mr. Pravesh Sahu, Advocate.

{Hon'ble Mr. Justice Sachin Singh Rajput)

Order on Board

17/03/2026

1. Challenge in this appeal under Section 173 of the Motor Vehicles Act, 1988 (for brevity, MV Act, 1988) is to the award dated 28.03.2022 passed by Second Upper Motor Accident Claims Tribunal, Raigarh (C.G.) in Claim Case No. 01/2021 whereby the claim application under Section 166 of the MV Act,1988 filed by the appellants/claimants was rejected.

2. Learned counsel appearing for the appellants / claimants submits that respondent No. 1-Jaswant Singh, while driving the Jupiter Scooter bearing registration No. CG-13-AF-5673 (for short, 'offending vehicle') owned by Sudha Singh Rajput (deceased) rashly & negligently, dashed the cement and concrete kept on the bridge, as a result thereof said Sudha Singh Rajput, who was sitting behind the said vehicle, fell down and sustained multiple injuries on her head and ultimately she succumbed to those injuries. He further submits that appellants / claimants filed an application under Section 166 of the MV Act before the Claims Tribunal claiming compensation to the tune of Rs. 39,08,000/- for death of deceased in the said accident. Respondent No. 2/Insurance Company resisted the claim application filed by the claimants on the ground that admittedly the deceased was owner of the offending vehicle and was not a third party, therefore, the claim petition filed by the claimants was not maintainable. He further submits that learned Claims Tribunal on the basis of above broad pleadings of the case framed as many as five issues. Claims Tribunal though decided the issue No. 1 with regard to negligent driving of offending vehicle by respondent No. 1, is “positive”, however, ultimately dismissed the claim petition filed by the appellants / claimants.

3. Learned Counsel for the appellants/claimants submits that the finding recorded by learned Claims Tribunal is bad in law. Admittedly, the deceased was not the driver of the offending vehicle, rather she was pillion rider sitting in the offending vehicle. The accident had occurred due to rash & negligent driving of driver i.e. respondent No. 1 of offending vehicle and dismissal of the claim application by the Tribunal is bad in law and, thus, the same is liable to be set aside.

4. Opposing the submission made by counsel for the appellants/ claimants, learned counsel for respondent No. 2/Insurance Company submits that admittedly the deceased herself was owner of the offending vehicle and in the instant case, as per the Insurance Policy (Ex.D-1) filed in the claim petition, no extra premium has

been paid for personal accident in respect of the risk of owner/driver due to the accident, as such, claim application filed by the claimants under Section 166 of the MV Act, 1988 is not maintainable in light of judgment rendered by the Supreme Court in the matter of **Oriental Insurance Company Limited vs. Smt. Jhuma Saha & others**[1] and **National Insurance Company Vs. Ashalata Bhoumik and others**[2].

5. I have heard learned counsel for the parties and perused the material available on record.

6. Admittedly, the deceased herself was owner of the offending vehicle and Insurance Policy (Ex.D-1) does not disclose that as to whether any PA coverage was taken by respondent No. 2/Insurance Company to cover the risk of owner of the offending vehicle and the Insurance policy issued in this case appears to be an act policy and owner by no stretch of imagination can be termed as 3rd party. Thus, in light of the judgment of the Supreme Court in the matter of **Oriental Insurance Company Limited vs. Smt. Jhuma Saha & others** (supra) and **National Insurance Company Vs. Ashalata Bhoumik and others** (supra), this Court is of the opinion, learned Claims Tribunal has not committed any error in dismissing the claim petition filed by the appellants/claimants.

7. Accordingly, the misc. appeal fails and is hereby dismissed. No cost (s).

Sd/-

(Sachin Singh Rajput)
Judge

Ami

1 2007 (1) MPHT Page 419 SC

2 (2018) 9 SCC 801