



2026:CGHC:18354

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 924 of 2020

1 - Eshwariya Das W/o Late Mahendra Das Aged About 22 Years R/o Bannak Chowk Sirgitty, Thana - Sirgitty, Tahsil And District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

2 - Sushila Bai W/o Tijau Das Manikpuri Aged About 40 Years R/o Bannak Chowk Sirgitty, Thana - Sirgitty, Tahsil And District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

3 - Tijau Das Manikpuri S/o Bandhan Das Manikpuri Aged About 46 Years R/o Bannak Chowk Sirgitty, Thana - Sirgitty, Tahsil And District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

... **Appellants**

Versus

1 - M/s C.G. Power And Coal Beneficiation Limited. Through - Owner / Director, Sector C. Plot No. 60 Industrial Area Sirgitty, Thana - Sirgitty, Tahsil And District - Bilaspur Chhattisgarh. (Owner), District : Bilaspur, Chhattisgarh

2 - The New India Insurance Company Limited, Branch Manager, Divisional Office - 2nd Floor Rama Trade Center, In Front Of Rajeev Plaza Bilaspur, Tahsil And District - Bilaspur Chhattisgarh. (Insurer Of The Offending Vehicle Trailer No. C.G. 10/ R. / 1546). (Insurer), District : Bilaspur, Chhattisgarh

... **Respondents**

[Cause-title taken from Case Information System (CIS)]

For Appellants	:	Mr. AL Singroul, Advocate
For Respondent No.01	:	None though served.
For Respondent No.2	:	Ms. Pooja Yadav, Advocate on behalf of Mr. Shrivendu Pandya, Advocate

Single Bench: Hon'ble Shri Justice Sanjay K. Agrawal

(Order on Board)

22.04.2026

1. In this appeal filed under Section 173 of the Motor Vehicle Act,



1988 (for short the “MV Act”) the appellant- Claimants are questioning the award dated 16.12.2016, whereby though learned Claims Tribunal has awarded compensation of Rs.5,00,000/- to the claimants for death of Mahendra Das, who died in road accident occurred on 16.08.2018, but the Insurance Company has been exonerated from the liability to pay the said compensation.

2. Learned counsel for the appellant submits that since the driver of the offending vehicle was not having valid and effective driving license to ply the same on the date of accident, in light of **National Insurance Co. Ltd. v. Swaran Singh**¹, doctrine of pay and recover needs to be applied in the present case, which the learned Claims Tribunal failed to do so. Thus, to that extent, the impugned award is liable to be modified.

3. On the other hand, though none appeared on behalf of the respondent No.02- Owner despite service of notice, but learned counsel appearing for the respondent No.3- Insurance Company would supported the impugned award and prays for dismissal of this appeal.

4. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the record with utmost circumspection.

5. In the case at hand, after perusal of the record, it appears that on the one hand learned Claims Tribunal held that the driver of the offending vehicle was not having valid and effective driving license to ply the same on the date of accident and exonerated the respondent No.02- Insurance Company from the liability to pay compensation to the

¹ (2004) 3 SCC 297



claimants, but on the other hand failed to apply the principles of pay and recover.

6. In that view of the matter, I of the considered opinion that doctrine of pay and recover is to be applied in the present. As such, in light of the decision of the Supreme Court rendered in Swaran Singh (supra) it would be expedient to direct the respondent No.02– Insurance Company to firstly pay the entire amount of compensation along with interest to the claimants within 45 days from the date of receipt of copy of this order and, thereafter, recover it from the owner of the offending vehicle i.e. respondent No.01 herein. It is ordered accordingly.

7. With aforesaid direction and modification with regard to the order of pay and recover, this appeal stands finally **disposed of**. No cost.

sd/-
(Sanjay K. Agrawal)
Judge

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