2026:CGHC:3861

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1272 of 2023

- New India Insurance Company Limited Through Divisional Manager (Divisional Number - 3) New India Insurance Company Limited R.D.A. Building Raipur Infront Of Tahsil Office, District Raipur (C.G.),(Insurer Of Bolero No. Cg25c-9981)

--- **Appellant(s)**

versus

1. Rajkumar Alias Rajkumar Tandan S/o Jamunlal Aged About 45 Years Resident - Village Devgaon Thana Palari District Balodabazar (C.G.),....(Claimant)

2. Dageshwar Dhruw S/o Tejlal Dhruw Resident Village - Malpuri Thana Gidhpuri District Balodabazar (C.G.).,(Driver Of Bolero No. - Cg25c-9981),...(Driver)

3. Ravindra Chhabra S/o Khajan Singh Chhabra Address - House No. 194, Ward No. 11, Punjabi Para Bemetara, District Bemetara (C.G.), (Owner Of Bolero - Cg25c-9981),...(Owner)

--- **Respondent(s)**

WITH

MAC No. 1275 of 2023

- New India Insurance Company Limited Through Divisional Manager (Divisional Number -3), New India Insurance Company Limited R.D.A. Building Raipur Infront Of Tashil Office, District - Raipur, Chhattisgarh. (Insurer Of Bolero No. Cg25c-9981)

--- **Appellant(s)**

Versus

1. Chhotuk Ram Patel Alias Baital S/o. Budga Patle, Aged About 46 Years Resident - Village- Devgaon, Thana - Palari, District - Baloda Bazar, Chhattisgarh.

2. Dageshwar Dhruw, S/o. Tejlal Dhruw, Resident - Village - Malpuri, Thana - Gidhpuri District - Baloda -Bazaar, Chhattisgarh. (Driver Of Bolero No. Cg25c-9981) (Driver)

3. Ravindra Chhabra, S/o. Khajan Singh Chhabra, Address - House No. 194, Ward No. 11, Punjabi Para Bemtera, District - Bemetara, Chhattisgarh. (Owner Of Bolero No. Cg25c-9981) (Owner)

--- **Respondent(s)**

For Appellant	**:**	Mr. Sudhir Agrawal, Advocate
For Respondent No. 3	**:**	Mr. Arvind Prasad, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Order On Board

22.1.2026

1) Insurance Company has preferred these appeals challenging liability as well as quantum pertaining to the awards passed by learned Second Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Claim Case Nos. 441/2019 and 442/2019 dated 3.5.2023 whereby learned Tribunal passed respective awards to the tune of Rs. 3,94,100/- and Rs. 1,36,000/- along with interest @ 7% p.a. on account of injuries sustained by Rajkumar and Chhotuk Ram respectively. It is further stipulated that if amount of compensation is not paid within period of 30 days from the date of award, penal interest of 9% per annum would apply on the respective awards.

2) Facts of the present cases are that on 20.1.2019 at about 6:45 pm, Rajkumar and Chhotuk Ram were riding the motorcycle.

Rajkumar was driver and Chhotuk Ram was pillion rider. The offending vehicle – Bolero bearing registration No. CG-25-C-9981 dashed the motorcycle. In the accident, both riders sustained injuries over various parts of body. Rajkumar filed Claim Case No. 441/2019 and claimed a sum of Rs. 23,60,000/- whereas Chhotuk Ram filed Claim Case No. 442/2019 and claimed a sum of Rs. 20,60,000/-. Driver and owner of Bolero filed reply and denied the averments made in claim petitions. They pleaded that Rajkumar was negligent in driving the motorcycle and driver of offending vehicle had valid and effective driving license. Insurance Company filed reply and took a specific plea that Rajkumar was negligent in driving the motorcycle and offending vehicle was being plied in absence of the necessary documents. Learned Tribunal framed issues ; parties led evidence and thereafter, award impugned was passed.

3) Learned counsel appearing for the Insurance Company submits that owner of offending vehicle in reply has stated that he sold the said vehicle to one Devendra Singh Rajpal on 1.10.2018, therefore he is not liable to pay compensation. He further submits that according to Section 157(2) of the Motor Vehicle Act, 1988, no steps were taken by the registered owner of offending vehicle for transfer of name, therefore learned Tribunal committed error of law while fastening liability with the Insurance Company. In this regard, he has placed reliance on judgment rendered by the Hon'ble Supreme Court in the matter of ***Rikhi Ram and Another***

Versus Sukhrania and Others[1]. He contends that there was head-on collision between two vehicles and a specific plea was taken by the Insurance Company in reply but learned Tribunal failed to frame any issue in this regard. He further contends that claimants failed to examine the treating doctor to examine the medical expenses incurred during the course of treatment and owner and driver of offending vehicle also failed to produce driving license and permit before the learned Tribunal. He argues that as the offending vehicle was being plied in absence of necessary documents, learned Tribunal ought to have fastened the liability on the owner and driver of offending vehicle. He further argues that learned Tribunal awarded penal interest @ 9% per annum which is contrary to the well settled principle of law. He prays to modify the awards accordingly.

4) On the other hand, learned counsel appearing for the owner of offending vehicle submits that Insurance Company failed to raise these issues before the learned Tribunal and no witness was examined by it to prove that driver of offending vehicle did not possess valid and effective license on the date of accident. He further submits that Insurance Company also failed to examine any RTO official to establish that offending vehicle was being plied in absence of valid fitness and permit. He contends that claimants exhibited the medical bills ; same were admitted by the learned Tribunal in evidence and no objection was raised by the

1**. 2003 ACJ 534**

Insurance Company at that time. He further contends that as the offending vehicle was insured with the Insurance Company, learned Tribunal rightly fastened liability on it.

5) Heard learned counsel for the parties and perused the record with utmost circumspection.

6) Perusal of the record would show that owner of offending vehicle filed reply and pleaded that he sold the said vehicle to one Devendra Singh Rajpal on 1.10.2018. Insurance Company filed reply and stated that driver of offending vehicle did not possess valid and effective driving license. With regard to contributory negligence, no plea was taken by Insurance Company in its reply. It is also stated that no steps were taken by the owner of offending vehicle for transfer of name.

7) In Claim Case No. 441/2019, Rajkumar examined himself as AW/1. He exhibited final report, FIR, seizure memo, arrest memo and medical documents/ bills. In evidence, he stated that he sustained serious injuries over right leg and spent more than Rs. 5 lakh rupees in treatment. In cross-examination, he admitted that he had located the offending vehicle – Bolero when it was 25-30 ft. far from the motorcycle but he did not admit that there was any negligence on his part in causing the accident. Dageshwar Dhruw, driver of offending vehicle was examined as NAW/1. He exhibited his driving license (Ex. D/1) and admitted the accident and no questions were put by Insurance Company with regard to contributory negligence.

8) Insurance Company failed to examine any witness to prove contributory negligence and the amount of money spent by claimants during course of treatment and no investigator was appointed by Insurance Company to prove the contrary. Insurance Company also failed to examine any RTO official to demonstrate that offending vehicle was being plied in absence of valid permit and fitness. The claimants exhibited prescription, reports and medical bills and learned Tribunal honored the same. Insurance Company also failed to prove the veracity of these documents, though it had sufficient opportunity to do so. With regard to transfer of vehicle, Insurance Company pleaded that offending vehicle was sold but it could not be proved that vehicle was transferred to Devendra Singh Rajpal, therefore contention made by Mr. Agrawal in this regard cannot be accepted.

9) **Rikhi Ram** (supra) was a case wherein motor cycle was transferred by the insured prior to date of accident but no intimation was given to Insurance Company, therefore liability of Insurance Company was absolved whereas present is a case where Insurance Company failed to prove either that vehicle was sold by respondent No. 2 to Devendra Singh Rajpal at any point of time or name of subsequent purchaser was entered in the registration certificate of offending vehicle, therefore Insurance

Company would not get any help from the above cited case.

10) It was also argued by Mr. Agrawal that penal interest @ 9% per annum imposed by the Tribunal is against the settled principle of law and therefore, it is liable to be set aside. In this regard, Hon'ble Supreme Court in the matter of ***National Insurance Co. Ltd.*** Vs. ***Keshav Bahadur and Others***[2] held as under :-

> "**13.** Though Section 110-CC of the Act (corresponding to Section 171 of the new Act) confers a discretion on the Tribunal to award interest, the same is meant to be exercised in cases where the claimant can claim the same as a matter of right. In the above background, it is to be judged whether a stipulation for higher rate of interest in case of default can be imposed by the Tribunal. Once the discretion has been exercised by the Tribunal to award simple interest on the amount of compensation to be awarded at a particular rate and from a particular date, there is no scope for retrospective enhancement for default in payment of compensation. No express or implied power in this regard can be culled out from Section 110-CC of the Act or Section 171 of the new Act. Such a direction in the award for retrospective enhancement of interest for default in payment of the compensation together with interest payable thereon virtually amounts to imposition of penalty which is not statutorily envisaged and prescribed. It is, therefore directed that the rate of interest as awarded by the High Court shall alone be applicable till payment, without the stipulation for higher rate of interest being enforced, in the manner directed by the Tribunal."

In view of the judgment rendered by the Apex Court in the matter of **Keshav Bahadur** (supra), learned Tribunal was justified

2**. (2004) 2 SCC 370**

in imposing interest @ 7% per annum on the respective awards from the date of filing of claim petitions till their realization, but has committed illegality in imposing penal interest @ 9% per annum on the respective awards, if compensation is not deposited within a period of one month before the Tribunal from the date of award. Therefore, the order of the Tribunal regarding penal interest is liable to be and is hereby set aside.

11) Accordingly, the appeals preferred by Insurance Company are **partly allowed** and the impugned awards are modified up to the extent as indicated herein-above.

Sd/-
Rakesh Mohan Pandey
JUDGE

Ajinkya