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HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 503 of 2025

1 - Sarju Kumar Sahu S/o Anuj Ram Aged About 36 Years R/o Village - Podibhatha, Akaltara, Thana - Akaltara, District Janjgir-Champa (C.G.), (Defendants)

2 - Akshay Rajput S/o Pramod Gopal Singh Rajput Aged About 30 Years R/o A-10, Anandpuram, Phase-02, Junwani Road, Bhilai, Thana - Smritinagar, District - Durg (C.G.)

... Petitioner(s)

versus

1 - Minor Vedanshi Patel Through Vali Dada Avadh Kumar Patel Urf Ghanshyam Patel And Others, R/o Village - Jatri, Thana - Pusaur, District - Raigarh (C.G.), (Details Of Respondents Are Mentioned As Per Impugned Order Sheet), (Plaintiffs)

2 - Avadh Kumar Patel Urf Ghanshyam Patel R/o Village - Jatri, Thana - Pusaur, District - Raigarh (C.G.)

3 - Kamla Bai Patel R/o Village - Jatri, Thana - Pusaur, District - Raigarh (C.G.)

... Respondent(s)



For Petitioner(s)	:	Mr. Roshan Singh Lamba, Advocate
For Respondent(s)	:	None present.

(Hon'ble Shri Justice Ravindra Kumar Agrawal)

Order on Board

07/05/2026

Heard.

2. The present petition has been filed by the petitioners under Article 227 of the Constitution of India against the impugned order dated 06.05.2025 passed by the learned Sixth Additional Motor Accident Claims Tribunal, Raigarh in Civil Suit No. MACT/41/2024 whereby the application filed by the petitioners under Order I Rule 10 (1) of the CPC has been rejected.

3. Learned counsel appearing for the petitioners submits that the petitioners are non-applicants before the learned Claims Tribunal. Respondents No. 1 to 3 are prosecuting a Claims Case for compensation on account of accidental death of Beena Patel, who was the mother of respondent No.1 and parents-in-law of the respondents No. 2 & 3. On the date of incident ie. 27.05.2023, deceased Bina Patel, along with her husband, was proceeding towards Madanpur Kharsia on Activa two wheeler vehicle bearing registration No. CG-13-AN-7293, accompanied by her children- Vedanshi Patel and Shreyans Patel. At about 08:00 PM, near Banipathar Railway Overbridge, trailer bearing registration No. CG-07-BJ-0893 was allegedly parked negligently in the middle of the road, in complete darkness and without any indicator,



parking signal, or precautionary warning. Owing to the absence of any visible signal, the deceased could not notice the stationary trailer and the Aactiva collided with the said vehicle. It has been alleged that, as a consequence of the aforesaid accident, the deceased Bina Patel and her husband sustained grievous injuries and were declared dead upon being taken to the hospital. On account of the death of deceased Bina Patel, the present claim petition has been instituted by the claimants against the present petitioners, who are stated to be the owner and driver of trailer bearing registration No. CG-07-BJ-0893.

4. Upon issuance of notice to the petitioners, they appeared before the Claims Tribunal and raised a specific objection regarding contributory negligence and moved an application contending that the deceased persons were travelling on the two-wheeler (Aactiva) involved in the accident and, therefore, the insurer of the said vehicle was a necessary party for proper adjudication of the claim petition and determination of compensation. It was further contended that the deceased persons themselves were also contributory negligent in the occurrence of the accident and, therefore, adjudication in absence of the insurer of the Aactiva would be incomplete and improper.

5. The learned Claims Tribunal, however, rejected the said application primarily on the ground that the claimants are entitled to claim compensation from any of the tortfeasors involved in the accident. Learned counsel for the petitioners submits that, in the event the Tribunal ultimately records a finding of contributory negligence against the deceased persons and proceeds to apportion liability accordingly,



the insurer of the two-wheeler (Activa) would become a necessary and proper party for effective adjudication of the dispute and determination of just compensation. It is, therefore, contended that the impugned order deserves to be set aside and the learned Claims Tribunal be directed to implead the insurer of the Activa vehicle as a party respondent in the claim proceedings.

6. None for the respondents though served.

7. I have heard learned counsel for the petitioner and perused the material annexed with the petition.

8. Having considered the averments made in the claim petition filed before the learned Claims Tribunal, it transpires that the accident in question involved two vehicles, namely, trailer bearing registration No. CG-07-BJ-0893 and Activa bearing registration No. CG-13-AN-7293. The specific allegation of the claimants is that the trailer was negligently parked on the road in darkness without any indicator, parking signal, or precautionary warning, on account of which the two-wheeler collided with the rear side of the said trailer. The claimants have impleaded only the owner and driver of the trailer as non-applicants in the claim proceedings, whereas the insurer of the aforesaid two-wheeler (Activa) has not been arrayed as a party to the claim petition.

9. In the considered opinion of this Court, for effective, complete, and proper adjudication of the issue relating to contributory negligence, the insurer of the said two-wheeler (Activa) is a necessary and proper party to the claim proceedings pending before the learned Claims



Tribunal. More particularly, since the rider and occupant of the said two-wheeler have died in the accident, it is only the insurer of the said vehicle which can appropriately contest and defend the issue of contributory negligence before the Tribunal.

10. True it is that the claimants are legally entitled to claim compensation against any of the tortfeasors involved in the accident; however, in the peculiar facts of the present case, where the accident admittedly involved two vehicles and a specific plea of contributory negligence has been raised by the petitioners/non-applicants, determination of such contributory negligence and apportionment of liability, if any, cannot be effectively adjudicated in absence of the insurer of the two-wheeler (Activa).

11. Accordingly, this Court is of the considered view that the impugned order suffers from illegality and perversity and, therefore, deserves to be set aside.

12. Consequently, the writ petition is allowed. The impugned order dated 06.05.2025 is hereby set aside. The learned Claims Tribunal is directed to permit impleadment of the Insurance Company of the two-wheeler (Activa) involved in the accident as a party respondent in the claim proceedings. The application preferred by non-applicant No.2 under Order I Rule 10 CPC stands allowed. The learned Claims Tribunal shall thereafter proceed with the matter afresh in accordance with law after impleadment of the insurer of the said two-wheeler.



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13. With the aforesaid observations and directions, the petition stands allowed.

Sd/-
(Ravindra Kumar Agrawal)
Judge