



2026:CGHC:10112

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 836 of 2016

Divisional Manager, National Insurance Company Limited , Ahead Lal-Ganga Shopping Complex, G.E.Road Raipur Tehsil And District Raipur, Chhattisgarh, Through Authorised Signatory National Insurance Company Limited Divisional Office B-1 Taha Complex Bilaspur, Chhattisgarh Insurer N.A.-2, **... Appellant**

versus

- 1** - Smt. Purnima Bai Wd/o Late Khelavan Sinha, Aged About 36 Years Caste Sinha R/o Ranipateva Post Ranipateva Tehsil Chhura District Gariyaband, Chhattisgarh,
- 2** - Geeteshwari D/o Late Dhelavan Sinha, Aged About 15 Years Minor Through Guardian Mother Smt. Purnima Bai Wd/o Late Khelavan Sinha R.N.1 Caste Sinha R/o Ranipateva Post Ranipateva Tehsil Chhura District Gariyaband, Chhattisgarh, District : Gariyabandh, Chhattisgarh
- 3** - Tushant S/o Late Khelavan Sinha, Aged About 12 Years Minor Through Guardian Mother Smt. Purnima Bai Wd/o Late Khelavan Sinha R.N.1 Caste Sinha R/o Ranipateva Post Ranipateva Tehsil Chhura District Gariyaband, Chhattisgarh, District : Gariyabandh, Chhattisgarh
- 4** - Seema D/o Late Khelavan Sinha, Minor Through Guardian Mother Smt. Purnima Bai Wd/o Late Khelavan Sinha R.N.1 Caste Sinha R/o Ranipateva Post Ranipateva Tehsil Chhura District Gariyaband, Chhattisgarh,
- 5** - Dushyant S/o Late Khelavan Sinha, Aged About 9 Years Minor Through Guardian Mother Smt. Purnima Bai Wd/o Late Khelavan Sinha R.N.1 Caste Sinha R/o Ranipateva Post Ranipateva Tehsil Chhura District Gariyaband, Chhattisgarh, District : Gariyabandh, Chhattisgarh
- 6** - Smt. Gaya Bai Wd/o Late Mehtar Ram, Aged About 65 Years Caste Sinha R/o Ranipateva Post Ranipateva Tehsil Chhura District Gariyaband, Chhattisgarh.....Claimants,

7 - Janak Ram Ratre S/o Budharu Ram Ratre, Aged About 39 Years R/o Village Khouli Post Khouli Kharora P.S. Kharora District Raipur, Chhattisgarh Owner-Driver, ... Respondent(s)

For Appellant : Shri B.N.Nande, Advocate.

For Respondents 1 to 6 : Shr Kunal Das, Advocate.

For Respondent 7 : Shri Ajay Mishra, Advocate.

(HON'BLE SHRI JUSTICE RADHAKISHAN AGRAWAL)

Judgment on Board

26/02/2026

1. This is insurer's appeal filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'MV Act') aggrieved by award dated 09.03.2016 passed by the learned Principal Motor Accident Claims Tribunal, Raipur, (for short, the learned Tribunal) in Claim Case No.91/2012 whereby the learned Tribunal allowed the claim petition awarding total compensation of Rs.14,85,272/- along with interest @ 6% per annum from the date of filing of claim petition till its realisation, while directing the Non-applicant No.2/appellant – insurer herein to make the payment first and then recover it from Non-applicant No.1 – owner-driver. It is not disputed that Non-applicant No.1 is the owner-driver whereas Non-applicant No.2 is the insurer of the offending vehicle. Parties to this appeal are referred hereinafter as per their description before the Claims Tribunal.

2. As per claim petition, on 15.03.2012 Khelawan Singh (for short, the deceased) met with accident caused by Non-applicant No.1 by driving the Bus No. CG/04/KC/1685) (offending vehicle in brevity) in a rash and negligent manner when the deceased was coming to Mandir Hasaud along with his companion on his Motorcycle No.CG/04/CR/2590. In the said accident, the deceased died during

treatment. A claim petition was moved by the legal heirs of the deceased seeking compensation to the tune of Rs.42,50,000/- on various heads, pleading, inter alia, that the deceased was aged 40 years and used to earn Rs.15,000/- by working as Munshi in a plant.

3. The claim petition was resisted by the Non-applicants on various grounds including Non-applicant No.2/insurance company filed its written statement and denied the averments of the claim petition and pleaded that there is breach of terms and conditions of the insurance policy.
4. The learned Tribunal, on a close scrutiny of the evidence led, awarded above stated compensation in favour of the appellants/claimants while directing the appellant/insurer to pay first and then to recover. Hence, this appeal by the insurer.
5. Learned counsel for the appellant/insurance company submits that though the offending vehicle Bus was insured with the appellant/insurance company on the date of accident, but at that time, the offending vehicle was not having valid and effective permit and even the learned Claims Tribunal in para 16 of its award also clearly held that on the date of accident, the vehicle in question was not possessing any valid permit. He further submits that the direction to the appellant/insurer to first pay and then recover the amount of compensation from Non-applicants No.1, owner/driver, is not sustainable and deserves to be set aside. In this connection, he placed reliance upon a decision rendered in the matter of *Balu Krishna Chava vs. Reliance General Insurance Co. Ltd. & Ors.* reported in 2023 (1) T.A.C. 130 (SC). He also submits that despite there being no proper evidence on record with regard to proof of income of the

deceased, the learned Claims Tribunal erred in assessing the monthly income of the deceased at Rs.6,000/-, which is on higher side and not in accordance with the minimum wages provisions. On these premises, he urged that the appellant/insurer may be exonerated from its liability.

6. On the other hand, learned counsel for respondents/claimants No. 1 to 6 submits that at the time of accident, the offending vehicle was insured with the insurance company, therefore, the insurance company is liable to satisfy the awarded amount, although the offending vehicle was not having valid permit on the date of accident. He further submits that the learned Claims Tribunal, considering the evidence available on record, has rightly directed the appellant/insurer to pay first and then to recover, which is proper and justified.
7. Learned counsel for respondent No.7/owner-driver submits that although the respondent No.7 has not filed any separate appeal against the impugned award, but the offending vehicle was insured with the appellant/insurance company, therefore, the insurance company is liable to pay the compensation amount.
8. I have heard learned counsel for the parties and perused the award impugned including the record of the Tribunal.
9. As regard first contention that the offending vehicle Bus was not having valid permit, the learned Claims Tribunal clearly held that as per the provisions of Section 66 of the MV Act, a transport vehicle can be operated in a public place only with a valid permit, however, in the present case, the offending vehicle Bus had no valid permit either permanent or temporary, on the date of accident, and therefore, it further held that on the date of accident, the offending vehicle was

being plied in breach of policy conditions.

10. In so far as second contention that the direction to the appellant/insurer to first pay and then recover the amount of compensation from Non-applicants No.1, owner/driver, is not sustainable is concerned, the Tribunal, although held that there was breach of policy conditions as on the date of accident, the offending vehicle was not possessing valid permit, but considering the fact that on the date of accident, the offending vehicle was insured with the appellant/insurer and that there is third party risk involved, therefore, the Tribunal was of the opinion that the deceased and his legal heirs are third parties are entitled to recover the compensation amount from the insurance company, and hence, the direction to first pay the awarded compensation to them and thereafter shall have the right to recover the amount from the vehicle owner was passed against the appellant/insurer, which in my view is not sustainable and needs no interference.
11. So far as third contention that the monthly income of Rs.6,000/- as assessed by the Tribunal is on higher is concerned, although, the A.W.1 Smt. Purnima Bai has stated that the deceased earned Rs.15,000/- per month as a clerk and denied the suggestion of Rs.3,000/- per month as salary, but no reliable documentary or employer's evidence was produced and even the Tribunal did not rely upon the Ex.P.11, which is handwritten certificate showing the salary of the deceased. However, considering the present circumstances and even assuming that the deceased had a slightly higher earning capacity than that of an ordinary labourer, and his monthly income can be assessed mostly at Rs.6,000/-, the Tribunal has taken the amount of Rs.6,000/- as monthly income and assessed Rs.72,000/- per

annum, which in the considered opinion of this Court, is just and proper and not on higher side.

12. Thus, considering every aspect of the matter and further considering the fact that at the time of accident, offending vehicle was insured with appellant/Insurance Company and considering the manner in which the monthly income of the deceased was assessed by the Tribunal, I am of the considered opinion that findings of the learned Claims Tribunal is correct finding based on evidence on record, which is neither perverse nor contrary to law. The case law cited by the learned counsel for the appellant is distinguishable to the facts of present case and is of no help to the appellant.
13. Consequently, the appeal filed by the insurance company, being without any substance, is liable to be and is hereby dismissed

Sd/-

(Radhakishan Agrawal)
JUDGE