



2026:CGHC:12938



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NAFR

## HIGH COURT OF CHHATTISGARH AT BILASPUR

### **MAC No. 1332 of 2025**

The New India Assurance Company Limited Through Its Branch Manager,  
Branch Office, M.M. Tower, Aakashvani Road, Jagdalpur, District Bastar,  
Chhattisgarh. (Insurer of Truck Bearing Registration No. CG.-07-CA-8270)

**... Appellant**

**versus**

1. Chetan Kumar Diwan S/o Late Ghudram Diwan, aged about 40 years  
R/o Girola, P.S. Kondagaon, District Kondagaon, Chhattisgarh.
2. Pawan Kumar Nag S/o Laxminath Nag, aged about 42 years R/o  
Bhumka, P.O. - Hirri, P.O. Badegongar, District Kondagaon Chhattisgarh.  
(Rider of Motorcycle Bearing Registration No. C.G.-17-KU-6119)
3. Bablu Sethiya S/o Gadaru Ram Sethiya R/o Village Fafni, Tahsil -  
Bastar, District Bastar, Chhattisgarh. (Owner of Motorcycle Bearing  
Registration No. CG.-17-KU-6119)
4. Tata A.I.G. Insurance Company Limited, Peninsula Business Park Tower  
A 15th Floor, G.K. Marg Lower Parel Mumbai (Maharashtra) Pin – 400013.
5. Ishwarlal Mandavi S/o Kusuram Mandavi Aged About 32 Years R/o  
Jagannathpur Sankra, Tah. Balod, District Balod, Chhattisgarh. ( Driver of  
Truck Bearing Registration No. C.G.-07-CA-8270)
6. Hasin Khan S/o Mohd. Salim Khan R/o Masjid Gali Keshkal, District  
Kondagaon, Chhattisgarh. (Owner of Truck Bearing Registration No. C.G.-07-  
CA-8270)

**... Respondents**

|                       |   |                               |
|-----------------------|---|-------------------------------|
| For Appellant         | : | Shri Dashrath Gupta, Advocate |
| For Respondent No.4   | : | Shri Sourabh Gupta, Advocate  |
| For other respondents | : | None though served            |



**(Hon'ble Shri Justice Sachin Singh Rajput)**

**Order on board dated 18.03.2026**

This appeal is directed against the award dated 26.03.2025 passed by Additional Motor Accident Claims Tribunal (for short the "Tribunal"), Kondagaon, District Kondagaon, CG in Claim Case No. 59/2022.

2. A claim application was filed by respondent No.1/claimant under Section 166 of the Motor Vehicles Act (for short "MV Act") seeking compensation of Rs. 80,83,200/-. As per the pleadings contained in the claim application respondent No.1/claimant was the pillion rider of the motor cycle bearing registration No. C.G.-17-KU-6119 which on the fateful day was being ridden by respondent No.2, owned by respondent No.3 and insured with respondent No.4. Respondent No.2 is said to have dashed the said motorcycle against a stationary truck bearing registration No. CG-07-CA-8270 by riding it rashly and negligently. The claim application further suggests that in the said accident, claimant/respondent No.1 suffered injuries and resultant permanent disablement.

3. Claim application was resisted by the owner, driver and insurer of the respective vehicles on various grounds including that of breach of the terms and conditions of the insurance policy.

4. The Tribunal framed the issues and decided the same in favour of the claimant. Tribunal held that the owner, driver and insurer of both the vehicles involved in the accident are liable to pay compensation to the extent of 50% and awarded the compensation of Rs. 16,28,735/- in favour of the claimant.

5. Learned counsel for the appellant/insurer of the truck submits that the said truck was parked by the side of the road and it is the rider of the



motorcycle who driving the vehicle rashly and negligently dashed against it.

In other words, it is the motorcycle's rider who was at fault, and there was no negligence on the part of the driver of the truck. He thus submits that the finding recorded by learned Tribunal apportioning the contributory negligence to the extent of 50% between the two insurance companies is bad in law and liable to be set aside. He submits that the appeal may be allowed, the impugned award may set aside so far as it relates to the appellant, the appellant/insurance company may be exonerated of its liability saddled by learned Tribunal.

6. On the other hand, counsel for respondent No.4 supports the award impugned and submits that the truck in question was parked by the side of the road without switching the indicators on, and being so the finding recorded by learned Tribunal fastening 50% liability on the insurers of both the vehicles is fully justified and does not warrant any interference in this appeal.

7. Heard counsel for the parties and perused the material on record.

8. The core issue involved in this appeal is whether the owner, driver and insurer of the truck in question can be exonerated of its liability and further that it is the insurer of the motorcycle alone which has to satisfy the award. Issue No. 4 was framed by learned Tribunal with regard to contributory negligence of the rider of the motorcycle and driver of the truck. From the evidence of the claimant, it is apparent that the truck in question at the relevant time was parked by the side of the road without putting on the indicators and for that the motorcycle rammed into it resulting in injuries to the claimant. In cross examination also, this witness remained firm. Learned Tribunal meticulously examined the statement made by the claimant. This witness was subjected to lengthy cross examination but all throughout he has



denied that the accident took place on account of the negligence of the motorcycle rider. FIR was also registered under Section 283 IPC. Thus factum of involvement of the truck in question is not in dispute and therefore, learned Tribunal has rightly come to the conclusion that there was contributory negligence of the drivers of both the vehicles and thus holding insurers of the truck and that of the motorcycle liable to satisfy the award to the extent of 50% each.

9. In this view of the matter, the award impugned fastening the liability to the extent of 50% on the insurers of both the vehicles cannot be said to be unjustified and being so the appeal being without any substance is liable to be dismissed.

**Sd/-**  
**(Sachin Singh Rajput)**  
**Judge**

Jyotishi