



2025:CGHC:36240



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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1308 of 2022

- The Manager, Oriental Insurance Company Limited, near Parmanand Building Rajendra Prasad Chowk, Durg, District Durg, Chhattisgarh.(Insurer of offending vehicle Deluxe Bus No. C.G.-07-E-8090) (Non-Applicant No.2).

... Appellant

versus

1. Smt. Zubeda Begam W/o Late Abdul Mohamad, aged about 62 years;(claimants)
2. Nagma Begum D/o Late Abdul Mohamad, aged about 29 years; (claimants)

Both are R/o H. No. 223 Ward No. 36, Ganjpara, Satti Chaura, Durg, District – Durg, Chhattisgarh.

3. Payal Travels, Address 31 Sadar Bazaar, G.E. Road, District Durg, Chhattisgarh. (Owner of offending Vehicle Deluxe Bus No. C.G.-07-E-8090).

... Respondents

For Appellant	:- Mr. Harishankar Patel, Advocate & Mr. Ishwar Chandra, Advocates.
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For Respondents/Claimants	:- Mr. Vinod Kumar Sharma, Advocate.
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Appears as Amicus Curiae	:- Mr. B.N. Nande, Advocate & Mr. Sourabh Gupta, Advocate on behalf of Mr. Sourabh Sharma, Advocate.
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SB- Hon'ble Shri Justice Sanjay K. Agrawal
Judgment On Board

25.07.2025

1. Assail in the present appeal filed under Section 173 of the Motor Vehicles Act, 1988 (for short "Act of 1988") preferred by the appellant herein is to the legality, validity and correctness of the judgment dated 02.09.2022 passed by the 1st Additional Motor Accident Claims Tribunal, Durg, Chhattisgarh (for short "Claims Tribunal") in MACC No.279/2021 by which the Claims Tribunal has fastened the liability upon the Insurance Company/appellant herein firstly, to pay the amount to the claimants and thereafter recover from the owner as the terms and condition of the policy would not cover the Conductor (deceased) as no additional premium was paid in his respect.
2. Mr. Harishankar Patel and Mr. Ishwar Chandra, learned counsels for the appellant, would submit that the Claims Tribunal is absolutely unjustified in fastening the liability upon the Insurance Company/appellant herein to pay and recover relying upon the principle of law laid down by their



Lordships of the Supreme Court in the matter of National Insurance Co. Ltd. v. Swaran Singh and others¹.

3. Mr. Vinod Kumar Sharma, learned counsel for the claimants, would support the impugned judgment and oppose the prayer made by learned counsel for the appellant herein.
4. Mr. B.N. Nande and Sourabh Gupta, learned Amicus Curiae, would submit that since ₹ 50/- premium has been paid for covering two persons as per Clause 10.(b) of Section 4 of India Motor Tariff (for brevity "IMT"), the Insurance Policy also covers the risk of conductor, therefore, the Insurance Company/appellant herein is liable to pay amount of compensation to the dependents of the deceased conductor. In support of their submission, they would rely upon the decision of the Supreme Court in the matter of Mangilal Vishnoi v. National Insurance Company Limited and Others².
5. I have heard learned counsel for the parties, considered their rival submissions made herein-above and gone through the records meticulously.

¹ (2004) 3 SCC 297

² (2022) 11 SCC 758



6. Admittedly, the deceased Aashif Qureshi @ Moh. Aashif was the conductor of the offending vehicle and as per the finding recorded by the Claims Tribunal at paragraph No.4 in the impugned award, in which the Insurance Company/appellant herein raised the pleadings that as per the premium paid, 24 passengers and 1 paid driver was covered under the insurance policy and risk of conductor is not covered and, therefore, the insurance company is not liable to indemnify the owner and the insurance company exonerated from the aforesaid liability. However, the Claims Tribunal has held that the risk of deceased conductor was not covered in the policy and no extra premium was paid in his respect and further the Claims Tribunal has directed the Insurance Company/appellant herein to pay the amount of compensation to the dependents of the deceased conductor by applying the principle to pay and recover in light of decision of the Supreme Court in the matter of Swaran Singh (supra). Even otherwise, it is apparent from the policy Ex.D/1 that the company has accepted the extra premium of ₹50/-



under IMT-40 as per Clause 10. (b) of Section 4 which states as under:-

“10. (b) Legal liability to paid driver and/or conductor and/or cleaner employed in connection with the operation of the insured passenger carrying vehicle (including taxis and motorized three/two wheelers ratable under the commercial vehicles tariff).

Liability to any paid driver or conductor or cleaner, as applicable, employed in operation of the insured vehicle may be covered on payment of Additional Premium @ ₹25/- per employee, the premium being chargeable on the total number of such employees registered to be carried in the vehicle. The Additional Premium of ₹25/- per employee is net irrespective of any period of insurance not exceeding 12 months.

Endorsement IMT-40 is to be used.”

7. A careful perusal of the Policy Ex.D/1 would show that the premium of ₹50/- has been accepted under the IMT-40 for legal liability to Paid Driver and/or Conductor and/or Cleaner employed in connection with the operation of the insured passenger carrying vehicle, therefore, the insurance company/appellant herein is liable to pay the amount of compensation to the dependents of the deceased Conductor.



8. The Supreme Court in the matter of Mangilal Vishnoi (supra) while rejecting the plea of the Insurance Company therein held in paragraph No.7 as under:-

“7. We have heard the learned counsel for the parties and find that the High Court has accepted appeal on a make-believe argument that cleaner or helper engaged by the employer are engaged in two different duties and that a helper is not covered by the insurance policy. The High Court has recorded a finding that admittedly deceased was a helper. In the absence of any clear demarcation of duties of a helper or a cleaner and in view of the fact that helper and cleaner are interchangeably used, therefore, declining claim for the reason that deceased was engaged as a helper and not cleaner is wholly unjustified. Additionally, the employer sought indemnification of five other employees engaged in loading or unloading activities by paying extra premium. It was for the insurance company to cross-examine the witnesses produced by the claimant or by the owner to prove the fact that the deceased was not engaged in loading or unloading activities. We find that the High Court has drawn a distinction between helper and a cleaner when none existed.

9. Similarly, coordinate Bench of this Court in the matter of Smt. Kusum Bai Patre v. Jay Kumar @ Jay Singh Thakur and ors.³ has fastened the liability upon the Insurance Company therein.

³ MAC No.1880 of 2018 decided on 02.05.2025



10. Since the additional premium has been paid and the same has been accepted by the Insurance Company/appellant herein under the IMT-40 for legal liability to paid driver and/or conductor and/or cleaner employed in connection with the operation of the insured passenger carrying vehicle, the Insurance Company is liable to pay any of employee i.e. driver/conductor/cleaner. In the instant case, the deceased was the conductor of the offending vehicle and the policy in question covers the risk of the conductor, therefore, Insurance Company is laible to pay the compensation to the dependents of the deceased conductor.

11. In view of the aforesaid discussion and analysis, I do not find any merit in the instant appeal, therefore, the appeal deserves to be and is hereby dismissed.

12. This Court appreciates the assistance rendered by Mr. B.N. Nande, learned counsel, and Mr. Sourabh Gupta, learned counsel, as *amicus curiae* in the present case.

Sd/-
(Sanjay K. Agrawal)
Judge

Ankit