



**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA
FAO(MVA) No.340 of 2018
Date of Decision: 07.05.2026**

Oriental Insurance Company Limited

...Appellant

Versus

Hamida Begum & Ors.

.....Respondents

Coram:

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?

For the Appellant : Mr. Narender Sharma, Advocate.

For the Respondents : Mr. Vivek Chandel, Advocate, for
respondents No.1 to 4 (claimants).

None for respondents No.5 and 6.
(owner and driver of Truck No.HP
51B-1876)

Mr. Jagdish Thakur, Advocate, for
respondent No.7 (Shriram General
Insurance Company Ltd.).

Mr. Pawan K. Sharma, Advocate, for
respondents No.8 and 9 (Owner and
driver of motorcycle No.HP73-2118).

Virender Singh, Judge (Oral):

The present appeal has been filed by the Oriental Insurance Company Limited, against the award dated 29.03.2018 passed by the learned Motor Accident Claims Tribunal-III, Solan, District Solan, H.P., (hereinafter referred to as the 'Tribunal'), in MACT Petition No.20ADJ-II/2 of 2014,

¹ Whether reporters of Local Papers may be allowed to see the judgment?



titled as Hamida Begum and others versus Mani Ram and others.

2. By way of award dated 29.03.2018, the learned Tribunal has allowed the claim petition, preferred by respondents No.1 to 4, by awarding the following relief:-

“26. In view of my findings recorded on the foregoing issues No.1 to 4 above, the petition is partly allowed with costs and the petitioners are held entitled to a compensation of Rs.11,37,000/- with interest at the rate of 9% per annum from the date of filing of the petition till realization thereof. The amount of compensation shall be paid by the respondent No.6 (Oriental Insurance Company). The award amount shall be apportioned amongst petitioners No.1 to 4 in equal shares.”

3. Today, while addressing the arguments, learned counsel appearing for Oriental Insurance Company Limited pointed out that initially, in this case, driver, owner and insurer of Motorcycle bearing No.HP-73-2118 (hereinafter referred to as the motorcycle), were not impleaded and they were impleaded, by the learned Tribunal, only on 07.11.2016, when, the application under Order 1, Rule 10 read with Section 151 of CPC has been moved, by the insurer of the truck.

4. Consequently, the driver, owner and insurer of the motorcycle were impleaded, as respondents No.4 to 6. Thereafter, their service was secured, and opportunity to file the



reply was given, however, in pursuance of the said opportunity, only respondents No.4 and 5, owner and driver of the motorcycle have filed the reply.

5. Perusal of the record also shows that prior to impleadment of the owner, driver and insurer of the motorcycle, issues were already framed, by the learned Tribunal on 20.03.2015. Issues, so framed, by the learned Tribunal are reproduced, as under:-

1. Whether the accident resulting into the death of Riyaj Ahmed was the result of any rashness or negligency on the part of the respondent No.2 in driving truck bearing registration No.HP-51B-1876 in coming on the main road without taking care and thereafter collided his vehicle against motorcycle bearing registration No.HP-73-2118 driven by one Sachin, with whom the deceased was sitting as pillion rider, as alleged? ..OPP

2. If issue No.1, is proved in affirmative, whether the petitioners being dependents are entitled to claim compensation amount in the sum of Rs.50,000/- along with interest from the respondents, jointly and/or severally, as alleged? ..OPP.

3. Whether the accident had occurred due to rashness or negligency on the part of motorcycle driver, as alleged, if so, its effect? ...OPR 1 & 2.

4. Whether the offending vehicle as well as accident motorcycle had neither been plied nor driven in accordance with the relevant provisions



of the M.V. Act and terms and conditions of the insurance policy, as alleged? ...OPR3

5. Relief.

6. Legally, the learned Tribunal was required to re-frame the issues, in view of the stand, as taken in the application, for impleadment, by Insurance Company of the Truck No.HP-51B-1867. Admittedly, neither, an application under Order 14, Rule 5, read with Section 151 of CPC, has been moved by any of the parties, nor, suo-moto powers have been exercised, by the learned Tribunal. Meaning thereby, the parties to the lis were bound to adduce their evidence, on the issues already framed on 20.03.2015.

7. Admittedly, issue with regard to the rash and negligent driving of the driver of motorcycle has not been framed, whereas, while, deciding the said claim petition, ultimate liability, to pay the amount of compensation has been fastened upon the insurer of the motorcycle. After impleadment of the parties, the claimants have not amended, their claim petition.

8. In such situation, this Court has left with no option, but, to set-aside the award dated 29.03.2018, passed by the learned Tribunal and to remand the matter back to the learned Tribunal, with a request to afford an opportunity to the



claimants to amend their claim petition, in view of the subsequent events i.e. impleadment of the owner, driver and insurer of the motorcycle.

9. In view of the persuasive submissions made by learned counsel appearing for insurer of motorcycle, one opportunity is granted to the Insurance company to file the reply to the claim petition/amended claim petition, if any. Thereafter, the learned Tribunal, is requested to re-frame the issues and afford only 2-2 opportunities to both the parties to lead their evidence, that too, within a period of six months.

10. With these observations, appeal is disposed of. Parties, through their counsel, are directed to appear before the learned Tribunal on **21.05.2026** at 10:00 AM.

(Virender Singh)
Judge

May 07, 2026
(subhash)