

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
M. A. No. 322 of 2007**

National Insurance Company Ltd., Divisional Office at Hindustan Building,
Bistupur, P.O. & P.S.-Bistupur, Jamshedpur, Dist.-Singhbhum East

.... Appellant

Versus

1. Smt. Gita Devi, W/o Shri Kalyan Prasad Sinha mother of deceased
Bharat Sinha

2. Kalyam Prasad Sinha, S/o Late Shankar Dayal Lal father of the deceased
Bharat Sinha, both are R/o Jawahar Nagar, Road No. 14, Mango, P.O.-Azad
Nagar, P.S.-Azadnagar, Jamshedpur, Singhbhum East

3. Rukshana Khatoon, W/o Wasi Mullah, R/o Road No. 12, Jawahar Nagar,
P.O. & P.S.-Mango, Mango Jamshedpur, Dist.-Singhbhum East

.... Respondents

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Appellant-Insurance Co. : Mr. Alok Lal, Advocate

For the Respondent No.3 : Mrs. Swati Shalini, Advocate

Oral Order

22 / Dated : 27.11.2025

1. Insurance Company is in appeal against the judgment and award of compensation in Compensation Case No. 82 of 2006, whereby and whereunder, liability to pay compensation, under Section 166 of the Motor Vehicle Act to the claimants, has been fixed on the Insurance Company.
2. As per the case of the claimants, on 15.03.2006 at 21:00 hours, deceased Bharat Sinha along with others were going to M.G.M., hospital by a police jeep to admit one patient which met with an accident with a truck bearing Registration No. CG-04ZC-8601. It is alleged that the said truck was being driven rashly and negligently resulting in accident in which Bharat Sinha sustained fatal injuries and died of it.
3. In pursuance of the notice, issued, the owner of the said truck had appeared and contested the case, *inter alia*, on the ground that the accident was not an outcome of the rash and negligent driving by the driver of the said truck.
4. The learned Tribunal recorded a finding on the issue of the manner of accident that it took place due to rash and negligent driving by the driver of the truck and consequently, awarded compensation against

the appellant Insurance Company which was admittedly the insurer of the vehicle.

5. It is argued by learned counsel on behalf of the appellant-Insurance Company that the accident did not take place due to the driving of the truck which was proceeding at a slow pace. As a matter of fact, the speeding jeep, which was taking patient to the M.G.M. Hospital, met with the accident due to the rash and negligent driving by its own driver. This fact will be borne out by the newspaper report, which was brought on record on behalf of the Insurance Company and marked as Ext.Y for identification, wherein the accident has been attributed due to rash and negligent driving by the driver of the Jeep.
6. The second limb of the argument is that the driver of the vehicle was not having valid and effective driving license at the time of accident. In support of this contention, the Investigator of the Insurance Company has been examined as O.P.W.1. Reliance is placed on **Civil Appeal No. 1213 of 2007 (arising out of S.L.P. (C) No. 16437 of 2006) (Ishwar Chandra and Ors. Vs. The Oriental Insurance Co. Ltd. and Ors.) and Civil Appeal Nos. 7220-7221 of 2011 (Beli Ram Vs. Rajinder Kumar and Ors.)**.
7. Learned counsel on behalf of the respondent-owner of the vehicle submits that the accident did not take place due to rash and negligent driving by the driver of the said truck. However, it is contended that the vehicle was insured and was plying by the driver having valid driving license and other relevant papers. Further the driver was never disqualified and it was subsequently renewed also and, therefore, in terms of the judgment of the Hon'ble Supreme Court in **(2004) 3 SCC 297 (National Insurance Co. Ltd. Vs. Swaran Singh and others)**, it will not amount to fundamental breach of the terms of the insurance policy. O.P.W.1 has also deposed in para-8 of the cross-examination that the driving license had been renewed for the period from 16.05.2001 to 28.04.2006 and it was never cancelled. Reliance is placed on **2023 SCC OnLine SC 1398 (IFFCO Tokio General Insurance Company Ltd. Vs. Geeta Devi & Ors.)**.
8. Having considered the submissions advanced on behalf of both sides, the main point for determination before this Court is whether the

finding of fact recorded by the learned Tribunal regarding negligence on the part of the driver of the truck suffers from any perversity to warrant interference by this Court. The only material to rebut the finding is the newspaper clipping which cannot be accepted to set aside the said finding regarding the rash and negligent driving by the driver of the offending truck.

9. Further, the matter for consideration before this Court is whether the owner can be held liable for breach of terms of the insurance policy under Section 149(2) of the Motor Vehicle Act for failure of the driver to renew the driving license within the stipulated time of 30 days. The ratio of the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Swaran Singh and Others*, (2004) 3 SCC 297**

“110. (iii) The breach of policy condition e.g. disqualification of the driver or invalid driving licence of the driver, as contained in sub-section (2)(a)(ii) of Section 149, has to be proved to have been committed by the insured for avoiding liability by the insurer. Mere absence, fake or invalid driving licence or disqualification of the driver for driving at the relevant time, are not in themselves defences available to the insurer against either the insured or the third parties. To avoid its liability towards the insured, the insurer has to prove that the insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the policy regarding use of vehicles by a duly licensed driver or one who was not disqualified to drive at the relevant time.

(vi) Even where the insurer is able to prove breach on the part of the insured concerning the policy condition regarding holding of a valid licence by the driver or his qualification to drive during the relevant period, the insurer would not be allowed to avoid its liability towards the insured unless the said breach or breaches on the condition of driving licence is/are so fundamental as are found to have contributed to the cause of the accident. The Tribunals in interpreting the policy conditions would apply “the rule of main purpose” and the concept of “fundamental breach” to allow defences available to the insurer under Section 149(2) of the Act.

(vii) The question, as to whether the owner has taken reasonable care to find out as to whether the driving licence produced by the driver (a fake one or otherwise), does not fulfil the requirements of law or not will have to be determined in each case.”

The ratio of **2023 SCC OnLine SC 1398 IFFCO Tokio General Insurance Company Ltd. (supra)** (para 16) is also to the same effect

10. Under the above stated position of fact and law, I do not find any infirmity in the impugned award.

This Misc. Appeal is, accordingly, dismissed. Pending, I.A. if any, stands disposed of.

Statutory amount deposited by the Appellant- Insurance Company to be remitted to the Tribunal for disbursement to the claimants against the final compensation amount.

(Gautam Kumar Choudhary, J.)

AKT/Satendra
Uploaded
28.11.2025