

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

OWP No. 933/2018

Oriental Insurance Co. Ltd.

.....Appellant(s)/Petitioner(s)

Through: Mr. Divyanshu Malhotra, Advocate vice
Mr. Suneel Malhotra, Advocate

vs

M/s Shital Singh Isher Singh Khorana
& ors.

..... Respondent(s)

Through: Mr. L. K. Sharma, Sr. Advocate with
Mr. Mohit Kumar, Advocate

**Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE**

ORDER(ORAL)

23.07.2026

1. This writ petition has been filed by the petitioner-Insurance Company for assailing the award passed in File No. 42/DF dated 11.01.2016 by District Consumer Redressal Forum Jammu (For short 'Forum') in complaint titled, '*M/s Shital Singh Isher Singh vs. Oriental Insurance Co.*' and also for setting aside the judgment/order passed in file No. 3804 dated 22.12.2017 by J&K State Consumer Dispute Redressal Commission, Jammu (For short 'the State Commission') in appeal titled, '*Oriental Insurance Co. Ltd. Town Hall Jammu through its Sr. Divisional Manager vs. Shital Singh Isher Singh*', whereby the appeal preferred by the petitioner-Insurance Company against the award passed by the Forum was dismissed.
2. The petitioner has assailed the impugned order primarily on the ground that the subject vehicle was being driven in breach of the essential terms

and conditions of the insurance policy, specifically unauthorized passengers, who were relatives of the driver, were travelling in the Tanker bearing registration No. JK02M-3505 at the time of the accident. It is contended that owing to this fundamental breach of policy terms, the petitioner–Insurance Company cannot be saddled with the liability to indemnify respondent No. 1 for the damages caused to the vehicle.

3. Mr. Divyanshu Malhotra, Advocate appearing vice Mr. Suneel Malhotra, Advocate, has vehemently argued that respondent No. 1 himself relied upon the FIR, which categorically records that the vehicle in question was carrying passengers. Consequently, the petitioner–Insurance Company cannot be held liable to indemnify respondent No. 1 for the loss caused to the vehicle in the accident occurred on 09.02.2009. In support of this contention, reliance has been placed upon the judgments of the Hon'ble Supreme Court in **Amrit Paul Singh & Anr. v. Tata AIG General Insurance Co. Ltd. & Ors.**[(2018) 7 SCC 558] and **Amalendu Sahu v. Oriental Insurance Co. Ltd.**[AIR 2010 SC 2090] to assert that, at most, the Insurance Company could only be made liable to settle the claim on a non-standard basis up to 75% of the Insured Declared Value (IDV).
4. *Per contra*, Mr. L. K. Sharma, learned Senior counsel for respondent No.1 has vehemently argued that following the registration of the FIR, a charge sheet was filed against the vehicle's driver. However, he was acquitted by the Court of the learned Magistrate, Banihal. It was further submitted that a writ petition is not maintainable at the instance of the petitioner–Insurance Company to challenge concurrent findings of fact recorded by both the District Forum and the State Commission. Mr. Sharma

additionally pointed out that in the claim petition filed by the persons injured in the accident, they had categorically stated that they were not travelling in the tanker in question.

5. Heard learned counsel for the parties and perused the record.
6. The sole issue for determination by this Court is whether the vehicle in question i.e, the Tanker bearing registration No. JK02M-3505 was carrying passengers at the time of the accident or not. Although the FIR recorded that the vehicle of respondent No. 1 was carrying passengers, the criminal proceedings arising therefrom culminated in a judgment dated 26.04.2012, whereby the driver of the tanker was acquitted. Significantly, the learned Magistrate specifically observed that none of the prosecution witnesses had deposed that the injured persons or the deceased girl were travelling in the tanker at the time of the accident. The learned District Forum duly took note of these findings, as well as the statements in the claim petition filed by the injured persons before the MACT, Ramban, and accordingly held the petitioner-Insurance Company liable to pay to respondent No. 1 an amount of Rs. 3,95,000/ along with interest @ 6% per annum from 03.10.2009 till its realisation. Respondent No.1 was also held entitled to Rs. 5,000/ each under the heads of mental agony & harassment and litigation expenses.
7. The State Commission also arrived at the similar conclusion and accordingly dismissed the appeal preferred by the petitioner-Insurance Company.
8. We have carefully perused the award rendered by the learned District Forum as well as the order dated 22.12.2017 passed by the State

Commission, affirming the same and dismissing the appeal of the petitioner–Insurance Company. In view of the concurrent findings of fact arrived at by both the forums below regarding the liability of the insurer to indemnify respondent No. 1 for the loss sustained by the vehicle, we find no ground to exercise our extraordinary writ jurisdiction. The authorities relied upon by Mr. Malhotra, being distinguishable on facts, do not advance the case of the petitioner. Accordingly, this petition is found to be without any merit and the same is **dismissed**.

9. Mr. Malhotra submits that 75% of the award amount has already been deposited with the Registry of this Court on 28.05.2018. Registry shall release the aforesaid amount along with interest accrued there upon in favour of respondent No. 1 in accordance with the relevant rules.

(RAJESH SEKHRI)
JUDGE

(RAJNESH OSWAL)
JUDGE

Jammu
23.07.2026
Neha-II

Whether the order is speaking:
Whether the order is reportable:

Yes/No
Yes/No