

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

Case No. :- Mac App No. 104/2022
CM No. 5255/2022

Date of Pronouncement : 12.08.2026
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The New India Assurance Co. Appellant(s)
Ltd.

Through :- Mr. Vipin Gandotra, Advocate

V/s

Bholi Devi and ors. Respondent(s)

Through: - Mr. Rajesh Kumar, Advocate.

Coram: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER (ORAL)

1. The present appeal has been preferred by the appellant against the award dated 30.05.2022 passed by the Motor Accidents Claims Tribunal, Jammu (hereinafter referred to as "the Tribunal") in Claim Petition bearing File No. 69 of 2016, titled *Bholi Devi & Ors. v. The New India Assurance Company Ltd. & Ors.*, whereby the appellant-Insurance Company has been directed to pay compensation of ₹48,32,572/- along with interest @ 7.5% per annum from the date of institution of the claim petition till its realization.
2. The facts, in brief, giving rise to the present appeal are that on 06.03.2016, the deceased, namely Ashok Singh Charak, along with his wife, was proceeding towards his residence from Gangyal on a

scooter bearing registration No. JK02AG-3195. On reaching near Kunjwani, the scooter was hit by the offending vehicle, i.e., Tractor bearing registration No. JK02BJ-3722, which was allegedly being driven rashly and negligently by respondent No. 6 herein. As a consequence of the accident, the deceased fell down and sustained grievous injuries. He was taken to Government Medical College Hospital, Jammu, where he was declared brought dead. The legal heirs of the deceased thereafter instituted a claim petition before the Tribunal seeking compensation on account of his death. The deceased was serving as an Assistant Sub-Inspector (ASI) in the J&K Police and was stated to be 55 years of age at the time of the accident. His annual income was assessed at ₹5,94,336/-.

3. The claim petition was contested by respondent No. 1-Insurance Company by filing objections, inter alia, pleading that the Tractor bearing registration No. JK02BJ-3722 was being used for a purpose other than that for which it had been insured. It was further pleaded that the tractor was being plied without a valid route permit and fitness certificate; that a trailer had been attached to it without authorization and was loaded with building material; and that gratuitous passengers were also travelling thereon at the time of the accident. The Tribunal, while placing reliance upon the judgment of the Hon'ble Supreme Court in *National Insurance Company Limited v. Pranay Sethi & Ors.*, (2017) 16 SCC 680, assessed and awarded compensation under the following heads:

i. Loss of dependency = ₹46,42,572/-

ii. Loss of consortium = ₹1,60,000/-

iii. Loss of estate = ₹15,000/-

iv. Funeral expenses = ₹15,000/-

Total compensation = ₹48,32,572/-

4. The Tribunal further held the claimants entitled to interest @ 7.5% per annum on the awarded amount from the date of institution of the claim petition till its realization and fastened the liability to satisfy the award upon the appellant-Insurance Company.
5. The award has been assailed by the appellant-Insurance Company primarily on the ground that, at the time of the accident, the trolley/trailer attached to the tractor was not insured. It is contended that the tractor had been insured only for agricultural purposes, whereas, at the relevant time, the trolley attached thereto was loaded with *Bajri*. According to the appellant, the insured vehicle was thus being used for a commercial purpose in breach of the terms and conditions of the insurance policy. On this premise, it is urged that the appellant-Insurance Company could not have been fastened with the liability to satisfy the award.
6. Heard learned counsel for the parties and perused the record.
7. During the course of arguments, learned counsel for the appellant, when confronted with the judgment of the Hon'ble Supreme Court in *The Royal Sundaram Alliance Insurance Company Limited v. Smt. Honnamma & Ors.*, 2025 INSC 625, sought to distinguish the same on facts. It was contended that in the aforesaid case the deceased was

travelling in the offending tractor/trailer itself, whereas, in the case at hand, the deceased was riding a scooter which was hit by the offending tractor. On the strength of this factual distinction, learned counsel submitted that the ratio of the aforesaid judgment would have no application to the present case.

8. The aforesaid contention requires examination in the light of the factual matrix and the principle of law laid down by the Hon'ble Supreme Court in *Royal Sundaram Alliance Insurance Company Limited* (supra). In the said case, the deceased was travelling on a tractor to which a trailer had been attached and was engaged as a coolie for unloading soil. The vehicle met with an accident and the trailer toppled, resulting in injuries to the deceased, who subsequently succumbed thereto. The Tribunal came to the conclusion that the risk of an employee travelling on the tractor/trailer was not covered under the insurance policy and, accordingly, fastened the liability upon the owner of the vehicle. The Tribunal awarded compensation to the extent of the statutory liability, quantified at ₹9.50 lakhs. Aggrieved by the award, the claimants approached the High Court. The High Court enhanced the compensation to ₹13.28 lakhs along with interest and fastened the liability to satisfy the award upon the Insurance Company. The Insurance Company, being aggrieved, carried the matter to the Hon'ble Supreme Court by way of Special Leave Petition.

9. Upon consideration of the controversy, the Hon'ble Supreme Court dismissed the challenge of the Insurance Company and, in paragraph 12 of the judgment, held as under:

“12. Thus, the liability of the tractor/its insurer extended to the accident caused by the tractor resulting in the death of the deceased, through the trailer. This being the position in the present case, the principles emanating from the decisions where the Courts have held that the trailer has to be separately registered with the insurance company to make it liable, would not be applicable. To that extent, the facts in the present case are clearly distinguishable from the ones cited by learned counsel for the appellant. The legislation i.e., the MV Act, being beneficial and welfare-oriented in nature [Ningamma v United India Insurance Co. Ltd., (2009) 13 SCC 710; K Ramya v National Insurance Co. Ltd., 2022 SCC Online SC 1338, and; Shiva Leela v Divisional Manager, United India Insurance Co. Ltd., 2025 SCC Online SC 563] and ultimately the root cause of the accident being the tractor, which was insured, this crucial fact cannot be lost sight of. For further clarification, we might illustrate: if an insured vehicle hits another vehicle which in turn hits a third vehicle, then for the entire chain of accidents, the liability would pass on to the vehicle which was the root cause of the accident because it is the result of the action in the same chain of events which cannot be segregated or compartmentalized. Moreover, this Court is duty-bound to be mindful of the ground realities of our nation and cannot let practicality be overshadowed by technicality.”

10. The Hon'ble Supreme Court further examined the scope of the insurance policy and the limits of liability arising there under. Upon construing the terms of the contract of insurance, the Court found that the liability in respect of the deceased was covered, though subject to the stipulated limit, and that the amount payable to the claimants could, in any event, not be less than ₹9.50 lakhs. The Hon'ble Supreme Court, therefore, found no infirmity in the assessment of compensation made by the High Court. However, insofar as the amount awarded in excess of ₹9.50 lakhs is concerned, the same was held to be recoverable from owner of the offending vehicle.

11. Applying the aforesaid principles to the facts of the present case, the mere circumstance that a trailer/trolley was attached to the insured tractor and that the same was carrying *Bajri* at the relevant time cannot, by itself, constitute a valid ground to absolve the appellant-Insurance Company of its liability to satisfy the award. In the present case, it was the insured tractor which struck the scooter on which the deceased was travelling and thereby caused the accident. It is neither the pleaded nor the proved case of the appellant that the accident occurred on account of the use of the trolley attached to the tractor or that the deceased sustained fatal injuries as a consequence of the trolley overturning or otherwise independently contributing to the accident.
12. No doubt, the FIR as well as the material collected during investigation indicate that, at the time of the accident, a trolley was attached to the tractor and was carrying building material in the nature of *Bajri*. However, there is no evidence on record to establish any causal connection between the carrying of *Bajri* in the trolley and the occurrence of the accident. There is not even a suggestion in the evidence led before the Tribunal that the accident occurred because the trolley was loaded with *Bajri*. In the absence of any such evidence, the mere attachment of the trolley or the nature of the material being carried therein cannot be made a ground to defeat the legitimate claim of third-party victims.
13. In *Royal Sundaram Alliance Insurance Company Limited* (supra), the Hon'ble Supreme Court has dealt with the question of insurance

coverage in respect of a tractor with an attached trailer. In view of the principle enunciated therein, the contention of the appellant that its liability stands completely excluded merely because a trolley/trailer was attached to the insured tractor cannot be accepted. More so, in the present case, the deceased was a third party travelling on a scooter and was neither travelling in the tractor nor in the trolley attached thereto.

14. There is yet another aspect of the matter. Though a tractor is ordinarily associated with agricultural use, the evidence brought on record assumes significance while determining whether there was such a fundamental breach of the policy conditions as would entitle the insurer to avoid its liability towards a third party. The witness examined on behalf of the appellant-Insurance Company has admitted that the policy in question was a comprehensive policy. The vehicle was, therefore, admittedly covered by an insurance policy extending to third-party risk.
15. The mere fact that a trolley attached to the tractor was carrying *Bajri* would not, ipso facto, establish that the tractor was being used for a commercial purpose in breach of the policy conditions. The nature of the material being transported, without anything further, is not determinative of the purpose for which the vehicle was being used. *Bajri* or other construction material may conceivably be transported for purposes connected with agricultural land, farm structures or other activities incidental thereto. What was required to be established by the appellant was that, at the relevant time, the insured

vehicle was in fact being used for a commercial purpose contrary to the terms and conditions of the policy.

16. The burden to establish breach of a policy condition of such nature as would absolve the insurer of its liability lay upon the appellant-Insurance Company. No cogent evidence has been led to discharge the said burden. The statement of the Investigating Officer, to the extent that a trolley was attached to the tractor and was carrying *Bajri*, establishes only the physical condition of the vehicle at the relevant time. It does not establish that the tractor was being used commercially or for hire or reward, much less that such alleged use had any nexus with the accident. The appellant, therefore, cannot derive any advantage merely from the fact that *Bajri* was found loaded in the trolley.
17. Viewed thus, neither the attachment of the trolley to the insured tractor nor the transportation of *Bajri* therein, in the absence of evidence establishing a breach of the policy conditions sufficient in law to avoid liability, can exonerate the appellant-Insurance Company from satisfying the award passed in favour of the claimants. The contention raised by the appellant on this score is, accordingly, without merit.
18. For the foregoing reasons and in the light of the law laid down by the Hon'ble Supreme Court in *The Royal Sundaram Alliance Insurance Company Limited v. Smt. Honnamma & Ors.*, 2025 INSC 625, this Court finds no ground warranting interference with the impugned

award dated 30.05.2022 passed by the Motor Accidents Claims Tribunal, Jammu.

19. Consequently, the appeal, being devoid of merit, is *dismissed*. The balance amount of compensation, if lying deposited and not already released, shall be released in favour of the claimants in accordance with the terms of the award, after due verification and completion of requisite formalities. The record of the Tribunal be sent back forthwith along with a copy of this judgment.

(Sanjay Parihar)
Judge

Jammu:
12.08.2026
Pawan Angotra

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

