

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

MA No. 15/2010

Date of pronouncement: 30.01.2026

Date of uploading:

Oriental Insurance Co. Ltd., Divisional
Officer-I, Town Hall, Jammu through Shri
R.K. Dhuppar, Age 50, Sr. Divisional
Manager, Jammu

.....Applicant(s)/Petitioner(s)

Through :- Mr. Vishnu Gupta, Advocate

v/s

1. Union of India through Commanding
Officer, 5121 ASC Bn C/o 56 APO
2. Bishan Dass Gupta S/o Nand Lal Gupta R/o
192, Sector-11, Nanak Nagar, Jammu
(owner of the Truck No. JK02W/1330)
3. Mohinder Singh S/o Sansar Singh R/o
Village Rajgarh, Tehsil & District Ramban.
(Driver of Truck No. JK02W/1330)

.....Respondent(s)

Through :- Mr. Vishal Sharma, DSGI with
Mr. Eishaan Dadhichi, CGSC
Mr. Vipin Gandotra, Advocate

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

ORDER (ORAL)

1. This appeal under Section 173 of the Motor Vehicle Act, 1988 [**“the Act”**], filed by Oriental Insurance Co. Ltd., arises out of an award dated 25.09.2009 passed by the Motor Accident Claims Tribunal, Jammu [**“the Tribunal”**] in file no. 815/Claim titled “Union of India vs. Mohinder Singh and Others”, whereby the Tribunal has awarded a sum of Rs. 4,91,083/- along with simple interest @7.5% per annum in favour of respondent no. 1 [**“the claimant”**] for damage to an army vehicle.
2. Impugned award is assailed by the appellant-Insurance Company, primarily, on two grounds.

- i. That in terms of Section 147 (2) (b) of the Act read with the Policy of Insurance on record, the liability of the Insurance Company in respect of respondent no. 2-the owner of the offending vehicle, was restricted to Rs. 6,000/- and, therefore, the Tribunal had erred in directing the appellant to indemnify respondent no. 2 in respect of the whole award amount.
 - ii. That the actual damage caused to the army vehicle by the offending vehicle has not been proved by any evidence and, therefore, it was not proper for the Tribunal to assess the damage caused to the army vehicle to the tune of Rs. 4,91,083/-.
3. Having heard learned counsel for the parties and perused the material on record, I am of the considered opinion that the impugned award cannot sustain in the eye of law and, therefore, deserves to be set aside. It is true and is contended by Mr. Vipin Gandotra, learned counsel appearing for respondent nos. 2 and 3, the issue with regard to the limited liability of the insurance company vis-à-vis damage to the property of third party was not raised before the Tribunal and is also not part of pleadings of this appeal. However, the question raised is a pure question of law which can be determined on the basis of terms of policy of insurance on record and, therefore, could be permitted to be raised even at the appellate stage.
4. Learned counsel for respondent no. 2 has, however, disputed even the terms and conditions of the policy and, therefore, it would be necessary to permit the appellant insurance company to raise this issue specifically before the Tribunal where an adequate opportunity to object to the issue is given to the respondents, in particular, respondent no. 2 herein.

5. That apart, I am in an agreement with learned counsel for the appellant that there is no evidence of quantification of the actual damage incurred by respondent no. 1 in repairing the vehicle and the Tribunal has relied upon the estimate prepared by PW-Rajkumar. This, obviously, is not an appropriate way of deciding the issue of the amount of damage suffered by respondent no. 1.
6. For the foregoing reasons, the appeal is allowed and the impugned award is set aside, the matter is remanded back to the Motor Accident Claims Tribunal, Jammu for fresh consideration. Appellant is given liberty to raise specifically the issue of limited liability qua the damage to the property of the third person to which respondent shall have right to object. The Tribunal shall consider the issue on the basis of evidence on record and the position of law obtaining on the point and shall also re-determine the actual damage suffered by respondent no. 1 in respect of his vehicle.
7. The parties shall appear before the Tribunal on 24.02.2026.
8. Nothing said hereinabove shall be construed as an expression of opinion on the merits of controversy and the Tribunal shall be free to decide the matter in accordance with law.
9. The amount deposited here shall be transferred to the account of the Tribunal.

(Sanjeev Kumar)
Judge

JAMMU
30.01.2026
Manik

Whether this order is speaking: Yes/No

Whether this order is reportable: Yes/No