



CGHC010034022023

2026:CGHC:44083

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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 233 of 2023

1 - The Oriental Insurance Company Limited By Manager, The Oriental Insurance Company Limited, R.K. Plaza Pachpedi Naka Ring Road-1 Raipur District Raipur (C.G.), Through Authorized Signatory Manager T.P. Hub Rama Trade Center 2nd Floor Opposite Rajiv Plaza Old Bus Stand Bilaspur, District : Bilaspur, Chhattisgarh.

... Appellant

versus

1 - Smt. Babita Kumari Wd/o Late Shri Sujit Kumar Aged About 31 Years R/o Income Tax Colony P.S. Civil Lines Raipur Tehsil And District Raipur, Chhattisgarh (Claimants).

2 - Minor Shresth Sahay S/o Late Shri Sujit Kumar Aged About 6 Years Through Natural Guardian Mother Smt. Babita, R/o Income Tax Colony P.S. Civil Lines Raipur Tehsil And District Raipur, Chhattisgarh (Claimants).

3 - Minor Sarthak Sahay S/o Late Shri Sujit Kumar Aged About 2 Years Through Natural Guardian Mother Smt. Babita, R/o Income Tax Colony P.S. Civil Lines Raipur Tehsil And District Raipur, Chhattisgarh (Claimants).

4 - Premlata Wd/o Late Shri Sheelvant Sahay Aged About 57 Years Through Natural Guardian Mother Smt. Babita, R/o Income Tax Colony P.S. Civil Lines Raipur Tehsil And District Raipur, Chhattisgarh (Claimants).

5 - Anuj Drolia S/o Shri Rajiv Drolia Aged About 24 Years Permanent Address Flat No. 404 Gulmohar, D.M. Vatika, Khamhardih, Kachna, Shanker Nagar, Police Station Khamhardih, Raipur, District Raipur, Chhattisgarh.

6 - Hdfc Ergo General Insurance Company Limited Address Manager Ergo General Insurance Company Limited Third Floor, Chavla Complex, Devendra Nagar Road, Sai Nagar, Raipur, District Raipur, Chhattisgarh(Owner).

7 - Abhijit Singh S/o Shri Harpal Singh Garcha Aged About 34 Years

Permanent Address House No. 31/327 Behind Govind Kunj, Civil Lines, Raipur, Tehsil And District Raipur, Chhattisgarh.

... Respondent(s)

For Appellant : Mr. B.N. Nande, Advocate

For Respondents No. 1 to 4 : Mr. S.P. Sahu, Advocate

For Respondent No. 5 : Mr. Sameer Rigri, Advocate

For Respondent No. 6 : Mr. Harshmander Rastogi, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Judgment on Board

(12.10.2026)

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 (for short the "Act of 1988") has been preferred by the appellant/Insurance company of the offending vehicle (Bullet) challenging the impugned award dated 28.09.2022 passed in Motor Accident Claims Case No. 338/2020, whereby the learned Claims Tribunal has awarded a total sum of Rs.1,12,28,001/- as compensation under Section 166 of the MV Act of 1988 to the claimants for the death of Sujit Kumar who died in a road accident which took place on 17.07.2020.
2. The brief facts of the present case are that, on 17.07.2020, the deceased, Sujit Kumar, was proceeding from his residence towards the Income Tax Bhawan on his motorcycle. At about 2:15 p.m., when he reached in front of the SBI ATM near Police Station Civil Lines, Raipur, his motorcycle was allegedly hit by a car bearing registration No. CG-04-MH-3370, driven by Respondent No. 5, and a Bullet motorcycle bearing registration No. CG-04-LU-1090, driven by Respondent No. 7, which were allegedly being driven in a rash and negligent manner and at a

high speed. As a result of the injuries sustained in the accident, Sujit Kumar succumbed to his injuries on 20.07.2020 while undergoing treatment at Shri Narayana Hospital, Raipur. In connection with the said accident, Crime No. 284/2020 was registered at Police Station Civil Lines, Raipur, under Section 304-A of the Indian Penal Code against the drivers of the aforesaid car and Bullet motorcycle. Upon completion of the investigation, the police filed a charge-sheet against the accused persons.

3. The claim petition under Section 166 of the Motor Vehicles Act, 1988, was filed by the wife, two minor children and mother of the deceased against the drivers/registered owners and insurers of the aforesaid offending vehicles. By the impugned judgment, the learned Claims Tribunal awarded compensation of Rs. 1,12,28,001/- in favour of the claimants and against the drivers/registered owners and insurance company of the aforesaid offending vehicles (car & bullet) to the extent of 50-50%. Aggrieved by the impugned judgment, the Appellant/insurance company of the Bullet motorcycle has preferred the present appeal before this Court.
4. Learned counsel appearing on behalf of the appellant (insurance company of offending vehicle Bullet) submits that in the present case, the accident occurred due to the sudden opening of the door of the offending vehicle Car in the middle of the road. There was no negligence or rashness on the part of the driver of the alleged offending vehicle Bullet, as the sudden opening of the car door in the middle of the road had blocked almost the entire

road, leaving no opportunity for the Bullet driver to avoid the accident even by exercising due care and caution. It is therefore submitted that the apportionment of negligence at 50-50%, as determined by the learned Tribunal, calls for interference. The facts, circumstances of the spot and the evidence on record clearly indicate that the Car driver has solely responsible for the accident. Hence, the liability attributed to the Bullet driver towards negligence and rash driving deserves to be set aside, and the appellant/Insurance Company deserves to be exonerated from liability.

5. Learned counsel for Respondent Nos. 1 to 4/claimants has filed a cross-appeal/objection and submits that he does not wish to press the same. He further submits that the compensation awarded by the learned Claims Tribunal is just and proper and calls for no interference.
6. Learned counsel appearing on behalf of Respondent No. 5 (driver/registered owner of the Car) submits that there was no negligence on the part of Respondent No. 5 in the accident. The learned Tribunal has not appreciated the evidence on record in a proper manner. The submissions advanced on behalf of the appellant/Insurance Company are not acceptable. Hence, the appeal deserves to be dismissed.
7. Learned counsel appearing for Respondent No. 6 (insurer of the car) supported the impugned award.
8. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

9. In the case at hand, Smt. Jessie Pius (AW-1) and Babita Kumari (AW-2) have been examined on behalf of the claimants, who are not eyewitnesses to the incident. Sandeep Maurya (AW-3) has been examined as an eyewitness, but he is not a listed witness in the charge-sheet filed by the police. However, no evidence has been adduced on behalf of the drivers/registered owners of the offending vehicles (Bullet and Car) and the Insurance Company. From a perusal of the certified copies of the documents of the charge-sheet filed by the police as Exhibits P-04 to P-11, it is evident that the First Information Report (FIR) pertaining to the accident dated 17.07.2020 was lodged on 24.07.2020, i.e., about seven days after the inquest proceedings. There is no document with regard to negligence or rashness on the part of the drivers of the offending vehicles. As per the final report, Exhibit P-04, the drivers of both the offending vehicles, Bullet and Car, have been prosecuted by the police under Section 304-A of the Indian Penal Code.
10. The eye witness, Sandeep Maurya (AW-3), has stated in his examination that when he was coming to his shop near the Income Tax Building, the driver of the offending vehicle Bullet overtook him. Thereafter, on proceeding further, he saw that the driver of the offending vehicle Car, while driving rashly and negligently, applied brakes and opened the door of the car towards the road, as a result of which Sujit Kumar (deceased), who was coming from behind, collided with the door and fell on the road. At that very moment, the offending vehicle Bullet, coming rashly and negligently from the front side of the car, hit

Sujit Kumar, who had fallen on the road, and caused the accident.

11. The learned Tribunal, on the basis of the aforesaid evidence, has held the drivers of both the offending vehicles to be equally negligent. The eyewitness, Sandeep Maurya, has admitted in his cross-examination that if the car driver suddenly opens the door, the accident is inevitable. He has accepted that the deceased met with the accident on account of colliding with the door of the offending vehicle Car, and he has also stated that he saw the accident taking place within an interval of 2-3 minutes and that the driver of the offending vehicle Bullet was also driving the vehicle rashly and negligently and dashed into the deceased. Thus, it does not appear from the statement of Sandeep Maurya that there was no negligence on the part of the driver of the offending vehicle Bullet in the accident.
12. Having regard to the facts and evidence on record and to the statement of the eyewitness, Sandeep Maurya, that the deceased first collided with the door of the car and fell on the road, and thereafter the Bullet rider, while driving rashly and negligently, struck the deceased, it is evident that the sudden opening of the car door onto the road was the principal cause of the accident. On the other hand, the negligence and rashness of the Bullet rider are also evident from his failure to control the Bullet in time due to its uncontrolled speed. However, the shares of negligence attributable to both drivers are not equal; rather, the share attributable to the car driver is greater than that of the Bullet rider. Hence, the respective shares of

negligence are determined at 75% for the driver of the offending vehicle car and 25% for the rider of the offending vehicle Bullet.

13. In view of the foregoing, 75% of the compensation awarded by the learned Tribunal shall be jointly payable by the driver/registered owner and insurer of the offending car, while the remaining 25% of the compensation awarded shall be jointly payable by the driver/registered owner and insurer of the offending Bullet motorcycle. If the appellant/Insurance Company has paid any amount in excess of its apportioned share of liability, it shall be entitled to recover the same from the registered owner and the insurer of the offending vehicle Car.
14. In the result, the appeal is **partly allowed**, whereas the cross-appeal/cross-objection is dismissed as not pressed. The impugned award is modified to the extent indicated hereinabove.
15. Records of the Tribunal along with a copy of this judgment be sent forthwith for compliance and necessary action, if any.

Sd/-

(Sanjay Kumar Jaiswal)
Judge

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