



CGHC010065432020

2026:CGHC:39949
NAFR

Digitally signed by
ALOK SHARMA
Date: 2026.09.18
18:05:37 +0530

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 260 of 2020

Smt. Usha Kumari Aditya W/o Narsing Prasad Aditya Aged About 45 Years
R/o Village And Post- Kikirda, Tahsil- Jaijaipur, District- Janjgir-Champa, C.G.,
District : Janjgir-Champa, Chhattisgarh

... **Petitioner(s)**

versus

1 - Rajkumar Aditya S/o Narsing Prasad Aditya R/o Village And Post- Kikirda,
Ward No. -02, Tahsil- Jaijaipur, District- Janjgir-Champa, C.G. (Driver Of The
Vehicle Motor Cycle No. 11/c.F. 7183), District : Janjgir-Champa, Chhattisgarh

2 - Narsing Prasad Aditya S/o Satturam Aditya Aged About 52 Years R/o
Village And Post- Kikirda, Ward No.-02, Tahsil- Jaijaipur, District- Janjgir-
Champa, C.G.(Owner Of The Vehicle Motor Cycle No. C.G.11/ C.F. 7183),
District : Janjgir-Champa, Chhattisgarh

3 - United India Insurance Company Limited Through- Divisional Manager,
Divisional Office- 2nd Floor, Gurukripa Towers, Vyapar Vihar Road, Bilaspur,
Police Station- Civil Line, Tahsil And District- Bilaspur, C.G. (Insurer Of The
Vehicle Motor Cycle No. C.G. 11/ C.F. 7183), District : Bilaspur, Chhattisgarh

... **Respondent(s)**

(Cause-title taken from Case Information System)

For Petitioner(s) : Mr. Anand Kesharwani, Advocate.

For Respondent No. 3. : Mr. B. N. Nande, Advocate.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.
Order on Board

11/09/2026

Heard.

1. The present writ petition under Article 227 of the Constitution of India has been filed by the petitioner/claimant assailing the order dated 06.12.2019 passed by learned 6th Additional Motor Accident Claims

Tribunal, Bilaspur, in Claim Case No. 690/2019 (wrongly mentioned in the prayer clause of the petition as M.J.C. Civil No. 135/2019), whereby the application preferred by respondent No. 3/Insurance Company under Order I Rule 10 of the Code of Civil Procedure, 1908 (for short, 'the CPC') has been allowed and the driver and owner of the other vehicle involved in the accident, i.e. motorcycle bearing registration No. CG 11 BA 2616, have been directed to be impleaded as parties to the claim proceedings.

2. Learned counsel for the petitioner would submit that the petitioner is the claimant before the learned Claims Tribunal and has preferred the claim petition seeking compensation on account of the death of deceased Ku. Rita Kahra. It is submitted that on 16.07.2017, an accident took place involving a motorcycle bearing registration No. CG 11 CF 7183, on which the deceased was travelling as a pillion rider, and motorcycle bearing registration No. CG 11 BA 2616. The accident occurred due to the rash and negligent driving of the motorcycle bearing registration No. CG 11 CF 7183, which was insured with respondent No. 3/Insurance Company. However, respondent No. 3 filed an application under Order I Rule 10 of the CPC seeking impleadment of the driver and owner of the motorcycle bearing registration No. CG 11 BA 2616. He would further submit that the learned Claims Tribunal, without assigning any legally sustainable reason, has allowed the said application and directed that the driver and owner of the other motorcycle be impleaded as respondents No. 4 and 5. It is submitted that the claimant is entitled to choose the tortfeasor against whom compensation is claimed, and the Insurance Company cannot compel the claimant to implead another tortfeasor

merely because another vehicle was involved in the accident. The claimants have the option to sue all or any of the joint tortfeasors and recover the entire compensation from any of them. It is, therefore, submitted that the impugned order suffers from material irregularity and deserves to be set aside.

3. Learned counsel appearing for respondent No.3/Insurance Company would oppose the writ petition and submit that the learned Claims Tribunal has committed no illegality in allowing the application under Order I Rule 10 of the CPC. He would submit that the accident dated 16.07.2017 admittedly involved two motorcycles, namely, motorcycle bearing registration No. CG 11 CF 7183 and motorcycle bearing registration No. CG 11 BA 2616, and, therefore, the driver and owner of the other vehicle are necessary parties for proper and complete adjudication of the claim, particularly when the question of negligence of the respective vehicles is required to be determined by the Tribunal.
4. He would further submit that the claimant cannot, merely on the basis of his own allegation, seek to fasten the entire liability upon the driver, owner and insurer of one vehicle when the accident involved another vehicle as well. According to him, the presence of the driver and owner of the motorcycle bearing registration No. CG 11 BA 2616 is necessary to enable the Tribunal to examine the respective negligence of the drivers and to determine the liability arising out of the accident on the basis of the evidence brought on record. It is submitted that their impleadment would also avoid multiplicity of proceedings and would enable the Tribunal to pass an effective and comprehensive award concerning all persons who may ultimately be found liable. It is,

therefore, submitted that the learned Claims Tribunal has exercised its discretion under Order I Rule 10 of the CPC in furtherance of the proper adjudication of the claim, and no jurisdictional error or material irregularity warranting interference under Article 227 of the Constitution of India is made out. Accordingly, the writ petition deserves to be dismissed.

5. I have heard learned counsel for the parties and perused the material available on record.
6. The short question which arises for consideration in the present petition is whether, merely because another vehicle was involved in the accident, the driver and owner of such vehicle are required to be impleaded as parties to the claim proceedings at the instance of the insurer of the vehicle against which the claimant has chosen to proceed.
7. It is not in dispute that the accident dated 16.07.2017 involved a motorcycle bearing registration No. CG 11 CF 7183, on which the deceased was travelling as a pillion rider, and motorcycle bearing registration No. CG 11 BA 2616. The petitioner/claimant, however, has chosen to institute the claim against the driver, owner and insurer of motorcycle bearing registration No. CG 11 CF 7183, alleging that the accident occurred due to the rash and negligent driving of its driver. The Insurance Company, on the other hand, sought impleadment of the driver and owner of the other motorcycle on the ground that their presence was necessary for determination of the respective negligence and liability.

8. In considering the aforesaid issue, the principle laid down by the Hon'ble Supreme Court in **Khenyei v. New India Assurance Co. Ltd.**, (2015) 9 SCC 273, assumes significance. The Hon'ble Supreme Court has explained the distinction between composite negligence and contributory negligence and has held that in a case of composite negligence, the claimant is entitled to recover the entire compensation from any one of the joint tortfeasors. The claimant may sue all or any of the joint tortfeasors and is not required, as a condition for maintaining the claim, to implead every joint tortfeasor. The right of the claimant to recover the compensation from any one of the joint tortfeasors cannot be defeated merely because another vehicle was also involved in the accident.
9. The aforesaid principle has also been followed by the Hon'ble Division Bench of this Court in **Pooja Chamecha & Others v. Manchit Rao Bhaskar & Others**, MAC No. 1232/2011, decided on 26.02.2012, wherein the question concerning the liability arising from composite negligence was considered, and it was recognised that the claimant can proceed against any one of the joint tortfeasors for recovery of the compensation. Thus, the fact that more than one vehicle was involved in the accident does not, by itself, create an obligation upon the claimant to implead the driver and owner of every vehicle involved in the accident.
10. In the case of **Savita Soni and Others v. Benuram and Others**, 2011 SCC OnLine Chh 423, Hon'ble Division Bench of this Court held that:-

“8. The Apex Court in the case of TO. Anthony v. Karvaman 1 (Supra), while outlining the distinction between the cases of

'Contributory Negligence' and 'Composite Negligence' observed in paras 6 and 7:

"6. "Composite negligence" refers to the negligence on the part of two or more persons. Where a person is injured as a result of negligence on the part of two or more wrongdoers, it is said that the person was injured on account of the composite negligence of those wrongdoers. In such a case, each wrongdoer is jointly and severally liable to the injured for payment of the entire damages and the injured person has the choice of proceeding against all or any of them. In such a case, the injured need not establish the extent of responsibility of each wrongdoer separately, nor is it necessary for the court to determine the extent of liability. of each wrongdoer separately. On the other hand where a person suffers injury, partly due to the negligence on the part of another person or persons, and partly as a result of his own negligence, then the negligence on the part of the injured which contributed to the accident is referred to as his contributory negligence. Where the injured is guilty of some negligence, his claim for damages is not defeated merely by reason of the negligence on his part but the damages recoverable by him in respect of the injuries stand reduced in proportion to his contributory negligence.

7. Therefore, when two vehicles are involved in an accident, and one of the drivers claims compensation from the other driver alleging negligence, and the other driver denies negligence or claims that the injured claimant himself was negligent, then it becomes necessary to consider whether the injured claimant was negligent and if so, whether he was solely or partly responsible for the accident and the extent of his responsibility, that is, his contributory negligence. Therefore, where the injured is himself partly liable, the principle of "composite negligence" will not apply nor can there be an automatic inference that the negligence was 50: 50 as has been assumed in this case. The Tribunal ought to have examined the extent of contributory negligence of the appellant and thereby avoided confusion between composite negligence and contributory negligence. The High Court has failed in correct the said error."

9. Now reverting to the present case, admittedly deceased Gorelal Soni was a pillion-rider in one of the two Motorcycles involved in the accident. In view of the above quoted dictum of the Apex Court in the case of T.O. Anthony v. Karvarnan 1 (Supra), the present would be a case of 'Composite Negligence' and not of 'Contributory Negligence' as held by the Tribunal. In view of the above quoted dictum of the Apex Court, the claimants have the choice of claiming the entire amount of compensation from the owner, driver and insurer of any of the two vehicles. Since in the present case, the claimants have opted to claim compensation from the insurer, driver and owner of the Hero Honda passion Motorcycle bearing Registration No. CG-07/L-2738, the insurer/owner/driver of the above Hero Honda Passion Motorcycle are liable to pay the entire amount of compensation of Rs. 4,89,500/- assessed by the Tribunal.”

11. In the present case, the claim petition is founded on a specific allegation that the accident occurred on account of the rash and negligent driving of the driver of motorcycle bearing registration No. CG 11 CF 7183. The petitioner has accordingly sought compensation against the persons liable in respect of the said vehicle. Whether the accident was caused solely by the negligence of the said driver or was the result of composite negligence involving both the vehicles is a matter which can be determined by the learned Claims Tribunal on the basis of the evidence led by the parties. Such determination does not necessarily require the presence of the driver and owner of the other vehicle as parties to the claim petition.
12. It is also relevant that the provisions of Order I Rule 10 CPC cannot be invoked merely because the proposed parties may have some connection with the occurrence or their presence may facilitate determination of some aspect of the dispute. The test is whether their presence is necessary for an effective and complete adjudication of the controversy and for passing an effective and enforceable award. In the

facts of the present case, the claim of the petitioner can be adjudicated, and an effective award can be passed against the existing respondents. The mere involvement of a motorcycle bearing registration No. CG 11 BA 2616 does not make its driver and owner necessary parties.

13. The submission of learned counsel for respondent No. 3 that impleadment is necessary for determining the respective negligence of both the vehicles also cannot be accepted in view of the settled principle governing composite negligence. The Tribunal may, on the basis of the evidence available on record, determine whether the accident involved composite negligence. However, such determination cannot be made a ground to compel the claimant to implead every alleged joint tortfeasor against whom the claimant does not seek relief. The insurer also cannot, by seeking impleadment under Order I Rule 10 CPC, convert the claimant's choice of the tortfeasor into a requirement to proceed against all persons connected with the accident.
14. It is, therefore, apparent that the learned Claims Tribunal, while allowing the application under Order I Rule 10 CPC, has not properly appreciated the legal position governing claims arising out of composite negligence. The claimant's right to proceed against any one of the joint tortfeasors, as recognised in **Khenyei** (supra) and followed by this Court in **Pooja Chamecha** (supra) and also the view taken in the case of **Savita Soni** (supra), could not have been curtailed merely because another motorcycle was involved in the accident. The driver

and owner of the motorcycle bearing registration No. CG 11 BA 2616 are not shown to be necessary parties in the facts of the present case.

15. Consequently, the impugned order dated 06.12.2019 passed by the learned 6th Additional Motor Accident Claims Tribunal, Bilaspur, in Claim Case No. 690/2019, allowing the application preferred by respondent No. 3/Insurance Company under Order I Rule 10 CPC and directing impleadment of the driver and owner of the motorcycle bearing registration No. CG 11 BA 2616, cannot be sustained in law. The same is hereby **set aside**.
16. The learned Claims Tribunal shall proceed with the claim petition against the parties already on record and decide the claim in accordance with law and on the basis of the evidence available on record.
17. It is made clear that the observations made herein are confined to the question of impleadment and shall not prejudice the parties on the merits of the claim, including the question of negligence or liability.
18. Interim order dated 05.03.2020 stands vacated.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Alok