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2026:CGHC:43780

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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1537 of 2023

Cholamandlam Ms General Insurance Company Ltd. Through Officer In Charge Cholamandlam Ms General Insurance Company, 2nd Floor Shri Ram Tower Pandri in Front of LIC Building Raipur, Chhattisgarh,

... Appellant

versus

- 1 - Smt. Hirasoni W/o Pitamber Soni, Aged About 39 Years, R/o Balouda Bazar P.S. and Tehsil Baloudabazar District Balouda Bazar, Chhattisgarh,
- 2 - Rajesh Kumar S/o Dhuniram Satnami, Aged About 28 Years, R/o Village Bodra P.S. Malkharouda District Janjgir Champa, Chhattisgarh

... Respondents

For Appellant	:	Mr. Ghanshyam Patel, Advocate
For Respondent No.1	:	Mr. Akash Shrivastava, Advocate
For Respondent No.2	:	None appeared despite service of notice

Hon'ble Shri Justice Sachin Singh Rajput

Order On Board

08.10.2026

1. The present appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, “the MV Act”) has been preferred by the appellant/Insurance Company assailing the legality, correctness and validity of the award dated 14.12.2022 passed by the learned Second Additional Motor

Accident Claims Tribunal, Balodabazar, (C.G.) in Motor Accidents Claim Case No. 50/2020.

2. By the impugned award, against a claim of Rs. 21,00,000/-, the learned Claims Tribunal has awarded a compensation of Rs. 5,07,154/- in favour of respondent No.1/claimant and against the appellant/insurance company and respondent No.2/driver and owner.
3. As per the pleadings of the application filed under Section 166 of the MV Act, the respondent No.1/claimant suffered injuries on account of rash and negligent driving of the offending vehicle, i.e. Pick Up bearing registration No. CG-11-AA-6716, by respondent No.2. The respondent No.1/claimant remained in the hospital for a considerable period of time and underwent treatment.
4. As per the claim application, the respondent No.1/claimant was working as a Shiksha Karmi Grade-III and was earning Rs.24,000/- per month. It was pleaded that she suffered permanent disability on account of the injuries sustained in the accident. Accordingly, the learned Claims Tribunal awarded compensation as stated above.
5. Written statement was filed by the appellant/insurance company and pleaded that by reserving their rights in light of Section 64 VB of the Insurance Act, 1938 and Section 170 of the MV Act, they denied the averments of the claim application and pleaded that there is a violation of the terms and conditions of the insurance policy.
6. The learned Claims Tribunal framed the issues, the claimant examined his witness, and, after appreciating the evidence available on record, awarded above stated compensation under various heads.

- 7.** Learned counsel appearing for the appellant/Insurance Company submits that in fact the offending vehicle, at the time of accident was not insured with the appellant/insurance company. The accident occurred at 07:00 AM on 19.10.2019 and the policy was issued on 19.10.2019 at 16:00 hours i.e. 04:00 PM. Thus, at the time of accident, the offending vehicle was not insured with the appellant/insurance company. He submits, in order to prove this fact and also the insurance policy, the appellant/insurance company wanted to examine its witness on 22.07.2022. As the witness could not appear on account of he being engaged in some other Court, the right to lead the evidence of the appellant/insurance company was closed by the learned Claims Tribunal. He placed reliance upon the judgment passed by this Court in MAC No.213/2022 to contend that at the time of accident, there was no contract of insurance between the insurance company and the insured i.e. respondent No.2. Thus, the learned Claims Tribunal erred in fastening the liability upon the appellant/insurance company, and also failed to provide adequate opportunity to put forth and prove the defence of the insurance policy. Thus, he submits that the impugned award may be set aside and the matter may be remitted back to the Claims Tribunal for decision making afresh permitting the appellant/insurance company to lead evidence.
- 8.** Learned counsel for respondent No.1/claimant submits that despite due opportunity, the appellant/insurance company failed to lead the evidence. Thus, there is no infirmity rather cross-objection has been filed by the respondent No.1/claimant for enhancement of compensation.

9. I have heard learned counsel for the parties and perused the record.
10. After hearing learned counsel for the parties and on perusal of record, this Court is of the opinion that one opportunity ought to have been granted to the appellant/insurance company to substantiate and put forth its defence, as the question as to whether at the time of accident, the offending vehicle was insured or the insurance coverage commenced from 16:00 hours i.e. 04:00 PM on 19.10.2019. It requires to be determined by the learned Claims Tribunal. In view of the above, the impugned award is set-aside. The matter is remitted back before the learned Claims Tribunal for decision making on the specific issue as to whether at the time of accident, the offending vehicle was insured with the appellant/insurance company or not. As the matter is being remitted back, the cross-objection filed by the respondent No.1/claimant is also disposed of. It is observed that the parties to the litigation are entitled to amend the pleadings, file documents, lead evidence to prove their respective pleadings. The appearing parties are directed to appear before the learned Claims Tribunal on **09.12.2026**. As respondent No.2/driver and owner has not appeared before this Court, the learned Claims Tribunal shall issue notice to respondent No.2/driver and owner fixing date for his appearance, thereafter proceed to decide the case in accordance with law including enhancing the compensation if needed and determining the liability to pay the compensation against the driver/owner and insurance company. It is observed that the amount deposited by the appellant/insurance company in compliance of the interim order passed by this Court, shall not be recovered from the respondent No.1/claimant and the same

shall be the outcome of the fresh award passed by the learned Claims Tribunal.

11. This appeal is thus, partly allowed.

**Sd/-
(Sachin Singh Rajput)
Judge**

Prakash