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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1649 of 2019

{Arising out of award dated 2-4-2019 passed by the Additional Motor Accident Claims Tribunal (FTC), Korba in Claim Case No.188/2013}

Jafar Khan, S/o Ramjan Khan, aged about 26 years, R/o Kududand, Thana Civil Lines, Bilaspur, District Bilaspur, Chhattisgarh. (Owner of Vehicle Auto No.CG-12/A-8957)

... Appellant

versus

1. Smt. Babita Singh, W/o Late Sheetal Singh Thakur, aged about 31 years,
2. Minor Sonam Singh, D/o Late Sheetal Singh Thakur, aged about 13 years,
3. Minor Prahlad Singh, S/o Late Sheetal Singh Thakur, aged about 11 years,

Respondent No.2 & 3 minor represented through mother respondent No.1 Smt. Babita Singh, W/o Late Sheetal Singh Thakur, aged about 31 years, All are R/o Mudapar, Chowki Manikpur, Thana Kotwali, Tahsil and District Korba, Chhattisgarh. (Claimants)

4. Lala Yadav, S/o Shankar Yadav, aged about 20 years, R/o Ramnagar, Lingiyadih, Thana Sarkanda, District Bilaspur, Chhattisgarh. (Driver of Vehicle Auto No.CG-12/A-8957)
5. National Insurance Company Limited, Through Branch Manager, National Insurance Company Limited, Branch Office – 13, Meenu Complex, Kosabadi, Korba, District Korba, Chhattisgarh. (Insurer of Vehicle Auto No.CG-12/A-8957)

... Respondents

For Appellant : Mr. Sangeet Kumar Kushwaha, Advocate.

For Respondent No.5 : Ms. Minakshi Gupta, Advocate on behalf of Mr. Ashish Gupta, Advocate.

Single Bench:-
Hon'ble Shri Justice Sanjay K. Agrawal

Judgment on Board

28/07/2026

1. By the impugned award dated 2-4-2019 passed by the Additional Motor Accident Claims Tribunal (FTC), Korba in Claim Case No.188/2013, the liability of payment of the compensation amount has been fastened upon the owner of the vehicle i.e. the appellant herein exonerating the Insurance Company on the ground that the driver of the offending vehicle namely, Lala Yadav – respondent No.4 herein, did not have valid and effective permit to ply the offending vehicle on road.
2. Mr. Sangeet Kumar Kushwaha, learned counsel appearing on behalf of the appellant herein/owner of the vehicle, would submit that the driver did have valid and effective permit to ply the offending vehicle on record, therefore, the Insurance Company is liable to pay the compensation.
3. Ms. Minakshi Gupta, learned counsel appearing on behalf of the Insurance Company/respondent No.5 herein, would support the impugned award and oppose the appeal and submit that the driver did not have valid and effective permit, therefore, the Insurance Company has rightly been exonerated.

4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the record with utmost circumspection.
5. Though it is appeal filed on behalf of the owner of the offending vehicle, but since the claimants are beneficiaries and since the driver did not have valid and effective permit as held by the Claims Tribunal in paragraph 14 of the impugned award, which is correct finding of fact based on the evidence available on record, I deem it appropriate to direct in light of the decision of the Supreme Court in the matter of **National Insurance Co. Ltd. v. Swaran Singh and others**¹, that the Insurance Company shall first pay the amount of compensation to the claimants and thereafter recover the same from the owner of the offending vehicle. It is ordered accordingly.
6. The aforesaid modification is made in the impugned award in the larger interest of the claimants, rather than the interest of the appellant herein.
7. With the aforesaid observation and direction, the appeal stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

¹ (2004) 3 SCC 297