

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 200 of 2014

- The United India Insurance Company Limited Through Its Branch Manager, United India Insurance Co. Ltd., Branch Raipur., Chhattisgarh (Insurer of vehicle Tata Sumo No. CG 10 F 0319)

---- Petitioner

Versus

1. Rohit Dewangan S/o Chintaram Dewangan Aged About 27 Years R/o Village Mandalor, P.S. Nawapara, Distt. Raipur C.G. (Driver of vehicle Tata Sumo No. CG 10 F 0319)
2. Rakesh Kumar Dewangan S/o Chintaram Dewangan Aged About 29 Years R/o Village Mandalor, P.S. Nawapara, Distt. Raipur C.G. (Owner of vehicle Tata Sumo No. CG 10 F 0319)
3. Smt. Uma Dewangan W/o Roshan Dewangan Aged About 22 Years R/o Village Mandalor, P.S. Nawapara, Distt. Raipur C.G. (Claimant)

---- Respondents

MAC No. 201 of 2014

- The United India Insurance Company Limited Through Its Branch Manager, United India Insurance Co. Ltd., Branch Raipur., Chhattisgarh (Insurer of vehicle Tata Sumo No. CG 10 F 0319)

---- Petitioner

Versus

1. Rohit Dewangan S/o Chintaram Dewangan Aged About 27 Years R/o Village Mandalor, P.S. Nawapara, Distt. Raipur C.G. (Driver of vehicle Tata Sumo No. CG 10 F 0319)
2. Rakesh Kumar Dewangan S/o Chintaram Dewangan Aged About 29 Years R/o Village Mandalor, P.S. Nawapara, Distt. Raipur C.G. (Owner of vehicle Tata Sumo No. CG 10 F 0319)
3. Bharat Lal Dewangan, aged about 56 years, S/o Alalkhor Dewangan, R/o Village Mandalor, P.S. Nawapara, Distt. Raipur C.G. (Claimant)

---- Respondents

MAC No. 202 of 2014

- The United India Insurance Company Limited Through Its Branch Manager, United India Insurance Co. Ltd., Branch Raipur., Chhattisgarh (Insurer of vehicle Tata Sumo No. CG 10 F 0319)

---- Petitioner

Versus

1. Rohit Dewangan S/o Chintaram Dewangan Aged About 27 Years R/o Village Mandalor, P.S. Nawapara, Distt. Raipur C.G. (Driver of vehicle Tata Sumo No. CG 10 F 0319)
2. Rakesh Kumar Dewangan S/o Chintaram Dewangan Aged About 29 Years R/o Village Mandalor, P.S. Nawapara, Distt. Raipur C.G. (Owner of vehicle Tata Sumo No. CG 10 F 0319)
3. Ajay Dewangan, aged about 13 years, (Minor represented by his

father Lakhan Dewangan), S/o Lakhan Dewangan, aged about 43 years, R/o Village Mandalor, P.S. Nawapara, Distt. Raipur C.G. (Claimant)

---- Respondents

For Appellant	:	Mr. H.B. Agrawal, Sr. Adv. with Ms. Deepali Dubey, Adv.
For Respondents No.1&2	:	Mr. Shivendu Pandya, Advocate.
For Respondents/claimants	:	Mr. CR Sahu, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

18/02/2019

As all these three appeals filed by the insurance company under Section 173 of the Motor Vehicles Act, 1988, arise out of the same accident occurred on 20.6.2011 involving vehicle Tata Sumo bearing registration No. CG 10F 0319, driven by non-applicant No.1, owned by non-applicant No.2 & insured with non-applicant No.3, they are being disposed of by this common judgment.

02. As per averments in the claim petitions, on 20.6.2011 Smt. Uma Dewangan, Bharat Lal Dewangan and Ajay Dewangan, were travelling in Tata Sumo bearing No. CG 10F 0319. However, non-applicant No.1 by driving the said vehicle in a rash and negligent manner, hit it against a truck bearing No. JH 12 C 2405, which was coming from opposite direction, and thereafter, having lost control over the vehicle, dashed a dumper bearing No. CG 04 J 2025 which was parked by the side of the road. In the said accident, Smt. Uma Dewangan, Bharat Lal Dewangan and Ajay Dewangan, suffered grievous injuries.

03. All the injured claimants filed separate claim petitions under Section 166 of the Motor Vehicles Act seeking compensation for the injuries suffered by them in the said accident.

04. After considering the pleadings and the evidence adduced by the parties, 4th Additional Motor Accident Claims Tribunal, Raipur passed separate awards dated 20.11.2013, thereby awarding Rs.1,17,200/- in favour of claimant Smt. Uma Dewangan in Claim Case No.331/2011;

Rs.15,000/- in favour of claimant Bharat Lal Dewangan in Claim Case No.334/2011 and Rs.15,000/- in favour of claimant Ajay Dewangan in Claim Case No.333/2011, with interest @ 6% per annum on the said amounts from the date of claim petitions till realization, fastening liability on non-applicant No.3/insurance company jointly and severally along with non-applicants No. 1 & 2/driver & owner of the offending vehicle.

05. Learned counsel for the appellant/insurer submits that as per Ex.D/1, the offending vehicle was having a private car – liability only policy and the insurance company is not liable to pay compensation if the vehicle is used for hire or reward. As per evidence of injured claimant Smt. Uma Dewangan, she has admitted in para-9 that Rs.1500/- was paid to the driver/non-applicant No.1 towards fare charges for going from Mandlor to Soramsinghi. Likewise, injured claimant Bharat Lal Dewangan has also stated so. Therefore, as the vehicle in question was being driven in violation of the policy conditions, the insurance company cannot be saddled with the liability of paying compensation to the claimants.

06. On the other hand, learned counsel for the respondents/driver & owner as well as the claimants support the impugned awards and submit that the Tribunal considering all the relevant aspects of the matters has rightly fastened liability on the insurance company and awarded compensation to the claimants which need no interference by this Court.

07. No counter appeal has been filed by the respondents as submitted by learned counsel for the parties.

08. Heard learned counsel for the parties and perused the material available on record.

09. In this case, owner of the offending vehicle namely Rakesh Kumar Dewangan has been examined. In para-10 of his evidence, he has stated that the claimants are his relatives and on the date of accident, the vehicle was being driven by his real younger brother Rohit Dewangan. In para-6 he has stated that for attending some

family function, his family members were going in the said vehicle to Soramsilli and diesel charges were borne by his relative Bharat Lal Dewangan. No contrary evidence has been adduced by the insurance company. Though the claimants in their cross-examination have stated that Rs.1500/- was paid to the driver towards fare charges but Rakesh Dewangan, owner of the vehicle, has stated that the said amount was given towards diesel charges. Thus, looking to the nature and quality of evidence adduced by the parties, it cannot be said with certainty that on the date of accident the offending vehicle was being driven for hire and reward in violation of the policy conditions. Since as per Ex.D/1 i.e. insurance policy, premium of Rs.450/- was taken by the insurance company for covering risk of unnamed nine persons, the insurance company is liable to pay compensation to the claimants as awarded by the Tribunal.

10. In the result, the appeals filed by the insurance company being devoid of any substance are liable to be dismissed and are dismissed accordingly.

Sd/

(Gautam Chourdiya)

Judge