

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.A (C) No. 1233 of 2014**

{Arising out of Award dated 26.07.2014 passed in Claim Case No. 285 of 2014 by the Additional Motor Accident Claims Tribunal, South Bastar, Dantewada}

State of Chhattisgarh, Through the Collector, District South Bastar, Dantewada, Chhattisgarh.

---- Appellant

Versus

1. Padami Podiya, aged about 45 years, S/o Vida, Caste Muriya, R/o Village Bodli, PS Nelsnar, District South Bastar, Dantewada, Chhattisgarh.
2. Radheshyam Sarkar, S/o Pyarelal Sarkar (Vehicle Driver) Aged about 45 years, R/o Bangali Camp, Kirandul, PS Kirandul, District South Bastar, Dantewada, Chhattisgarh.
3. Ramesh Kumar Lohare S/o Manikchand Lohare, Aged about 27 years, R/o Main Market, Kirandul, PS Kirandul, District South Bastar, Dantewada, Chhattisgarh.
4. The New India Insurance Company Limited, Jagdalpur, District Bastar, Chhattisgarh.
5. The General Manager, NMDC Kirandul, District South Bastar, Dantewada, Chhattisgarh.

---- Respondents

For Appellant/State	: Shri Chandresh Shrivastava, Deputy Advocate General.
For Respondents	: None

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per P.R. Ramachandra Menon, Chief Justice

20.08.2020

1. Fixation of the liability to satisfy the compensation awarded by the Tribunal upon the Appellant/State who was only a 'borrower' of the offending vehicle, is put to challenge in this appeal.
2. It is the case of the Appellant-State, that in connection with the protocol arrangements on account of arrival of the Hon'ble Governor of the

State of Chhattisgarh at Bhairamgarh in Salwa Judum programme on 22.10.2005, Tata 409 Goods Carriage bearing registration No. CG 18 ZB 0102 owned by the 3rd Respondent was made available by the 5th Respondent. According to the Appellant-State, the possession of the said vehicle, however, was not taken. When the said vehicle was proceeding along the road on 22.10.2005, carrying several persons as driven by the 2nd Respondent, it met with an accident because of the rash and negligent driving; whereby several passengers who were travelling in the vehicle got injured. This was sought to be compensated by filing separate claim petitions before the Tribunal. In the claim petition, relief was sought for against the Owner, Driver and Insurer of the vehicle and so also from the State and the 5th Respondent-NMDC, who had arranged the vehicle. The claim was sought to be resisted by the Respondents and in particular, by the State and also by the 5th Respondent-NMDC. On conclusion of the trial, the Tribunal found that the accident was solely because of the negligence on the part of the Driver of the offending vehicle and that the Claimants were entitled to be compensated. The liability was accordingly mulcted jointly and severally on the Driver and the Owner as well as the Appellant-State and the 5th Respondent-NMDC, sparing the Insurer (as the claim was in respect of passengers carried in a goods carriage, which was in violation of the statutory/policy conditions).

3. The liability fixed upon the State and the NMDC was sought to be challenged by filing separate appeals. Similarly, an appeal was preferred by the legal representatives of the deceased. All these appeals (except the present appeal) were taken up for and heard together, culminating in the judgment dated 24.04.2015 passed by a learned Single Judge of this Court in **MA(C) No. 1009 of 2014** and connected cases.

4. We have gone through the aforesaid judgment. The learned Single Judge of this Court, based on the materials available on record, held that the

Appellant-State Government was in possession and control of the vehicle at the relevant time. In the said circumstances, the awards passed against the NMDC were set aside and the appeals preferred by the State were dismissed. It was held that the awards shall stand against the other Respondents, against whom the awards were passed by the Tribunal. Enhancement of the compensation was awarded in the appeal preferred by the Claimants.

5. Shri Chandresh Shrivastava, the learned Deputy Advocate General representing the Appellant/State concedes that this appeal was unfortunately left out and omitted to be tagged alongwith the other appeals, which were finalised as per the common judgment dated 24.04.2015 as mentioned above. By virtue of the turn of events, whereby the other appeals preferred by the State raising similar contentions as in the present appeal have been turned down and the said appeals have been dismissed, the matter has become final and no further challenge can be raised at the instance of the State.

6. In the above circumstance, we hold that the liability on the part of the State stands declared by a learned Single Judge of this Court (in similar appeals preferred by the State) as per the judgment dated 24.04.2015 in MA(C) No. 1009 of 2014 and connected cases.

7. The present appeal is liable to be dismissed in terms of the above judgment. It stands dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE