NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 47 of 2014

- Vipin Bihari Mishra son of Ramashankar Mishra, aged about 36 years, resident of Chunchuni Basti, Aadarsh Nagar, Kusmunda, Tahsil and Police Station Katghora, District Korba, C.G.

------Appellant/Non-applicant 1

VERSUS

1. Sanjay Kumar Dhirhi son of Ganga Prasad Dhirhi, aged about 25 years, resident of Quarter No. 209/3/A Balconagar, P.S. Balconagar, District Korba, C.G. **------Claimant**
2. Bajaj Allianz General Insurance Company Limited, through the Branch Manager, Branch Office at First Floor Shivmohan Bhawan, Vidhansabha Road, Pandri, District Raipur C.G. **--------Insurer**

----Respondents

WITH

MAC No. 150 of 2014

- Sanjay Kumar Dhirhi S/o Ganga Prasad Dhirhi Aged About 25 Years R/o Qtr. No. 209/3/A/ Balco Nagar, P.O. And Thana- Balco Nagar, Korba, Distt. Korba C.G. **---- Appellant**

Versus

1. Vipin Bihari Mishra S/o Ramashankar Mishra Aged About 36 Years R/o Chinchuni Basti, Adarsh Nagar, Kusmunda, Tah. Katghora, Distt. Korba C.G.
2. Bajaj Alliance General Insu.Co.Ltd. Thru- Branch Manager, First Floor, Shiv Mohan Bhawan, Vidhan Sabha Marg, Pandari, Raipur, Distt. Raipur C.G.

---- Respondents

WITH

MAC No. 151 of 2014

- Smt.Shanti Dhirhi W/o Ganga Prasad Dhirhi Aged About 50 Years R/o Qtr. No. 209/3/A/ Balco Nagar, P.O. and Thana- Balco Nagar, Korba, Distt. Korba C.G.

---- Appellant

Versus

1. Vipin Bihari Mishra S/o Ramashankar Mishra Aged About 36 Years R/o Chinchuni Basti, Adarsh Nagar, Kusmunda, Tah. Katghora, Distt. Korba C.G.
2. Bajaj Alliance General Insu.Co.Ltd. Thru- Branch Manager, First Floor, Shiv Mohan Bhawan, Vidhan Sabha Marg, Pandari, Raipur, Distt. Raipur C.G.

---- Respondents

MAC No. 47/2014

For Appellant	:	Mr. Goutam Khetrapal, Advocate.
For Respondent No. 1	:	Mr. Sanjay Patel, Advocate.
For Respondent No. 2	:	Mr. Abhishek Sinha and Mr. Vaibhav

Maheshwari, Advocate

MAC No. 150/2014

For Appellant : Mr. Sanjay Patel, Advocate
For Respondent No. 1 : Mr. Goutam Khetrapal, Advocate
For Respondent No. 2 : Mr. Abhishek Sinha and Mr. Vaibhav Maheshwari, Advocate

MAC No. 151/2014

For Appellant : Mr. Sanjay Patel, Advocate
For Respondent No. 1 : Mr. Goutam Khetrapal, Advocate
For Respondent No. 2 : Mr. Abhishek Sinha and Mr. Vaibhav Maheshwari, Advocate

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

Judgment on Board

Per Parth Prateem Sahu, J.

07/08/2020

1. All these appeals are arising out of the same accident and out of them learned Claims Tribunal has disposed of two claim applications by common award dated 22.11.2013 hence all these three appeals are being disposed of by this common order.

2. MAC No. 47/2014 has been filed by the owner of the offending vehicle (auto rickshaw), MAC 150/2014 is an appeal filed by the injured who suffered permanent disability and MAC No. 151/2014 was filed by the injured who suffered injury in the accident.

3. The appellants-claimants being aggrieved by the common order dated 22-11-2013 passed in claim case no. 208/13, 209/13 by Additional Motor Accidents Claims Tribunal, FTC, Korba have filed these appeals wherein the learned Claims Tribunal has awarded sum of Rs. 3,59,000/- in permanent disability case and Rs. 4,000/- in injury case.

4. Brief facts relevant for disposal of these appeals are that on 15-07-2010 at about 12:30 a.m. in the mid night when the claimants were traveling on an auto-rickshaw bearing registration No. CG 12 E 5072 (offending vehicle), it met with an accident near check-post Balco Nagar, Korba, due to rash and negligent driving of the vehicle by appellant-owner of the offending

vehicle/Non-applicant 1. In the said accident, Sanjay Kumar Dhirhi suffered grievous injuries over his person resulting in permanent disability, he filed an application under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs. 4,37,000/- on various heads, Smt. Shanti Bai Dhirhi filed claim application seeking compensation of Rs. 23,00,000/- mentioning therein that she suffered permanent disability and was deprived of the future income.

5. Appellant/ Non-applicant 1-owner of the offending vehicle submitted reply to the claim applications pleading therein that the accident took place due to negligence on part of the claimants, the accident was not on account of negligence on the part of Non-applicant 1 driver-cum-owner of the offending vehicle, the amount claimed is highly exaggerated, offending vehicle was insured with Respondent 2/ Non-applicant 2-Insurance Company, the liability, if any, would be upon the Insurance Company to satisfy the amount of compensation, if any, to be awarded to the claimants.

6. Respondent 2/ Non-applicant 2- Insurance Company submitted reply to the claim application and denied all the adverse pleadings made against it and pleaded that the claim has been made on false and fabricated ground, there was no income of claimant Sanjay Dhirhi, driver of the offending vehicle was not possessing valid and effective driving licence, at the time of accident more passengers were traveling than the permitted seating capacity, there was no valid fitness and permit of the offending vehicle, thereby, there was breach of conditions of insurance policy, no information was forwarded by the owner of the offending vehicle with regard to the accident as required under the provisions of Motor Vehicles Act.

7. Upon appreciation of pleadings and evidence placed on record by the respective parties, learned Claims Tribunal held that the claimants suffered injury on account of rash and negligent driving of the offending vehicle by Non-applicant 1, there was no liability upon the Insurance Company for satisfying the amount of compensation and awarded Rs. 3,59,000/- to the

claimant Sanjay Kumar Dhirhi by taking into consideration 45% of permanent disability and loss of income due to disability @ 30%. Learned Claims Tribunal in claim case filed by Smt. Shanti Bai Dhirhi, awarded Rs. 4,000/- as compensation including Rs. 2,000/- towards pain and special diet and Rs. 1,522/- towards medicine and spectacles etc. The Tribunal also recorded that the claimant Smt. Shanti Bai Dhirhi has not suffered any permanent disability or any dis-figuration on her face.

8. MAC No. 47/2014 filed by the owner of the offending vehicle has raised three grounds challenging the finding recorded by the learned Claims Tribunal exonerating the Insurance Company from its liability.

9. Learned counsel for the appellant (driver-cum-owner of the offending vehicle) in MAC 47/2014 submits that the Claims Tribunal erred in recording the finding that the appellant was not possessing valid and effective driving licence on the date of accident, ignoring the contents of the licence produced as Ext. D1(C) which is copy of the register maintained by the RTO showing issuance of licence in favour of the appellant/ Non-applicant 1. He also submits that learned Claims Tribunal has further erred in holding that at the time of accident, five persons were traveling, therefore, there was breach of conditions of insurance policy is erroneous because if the vehicle is insured then the Insurance Company is to be held liable to the accident of the risk covered under the policy for the persons of that number. He submits that as per the law laid down by the Hon'ble Supreme Court in the matter of ***National Insurance Company Ltd. v. Anjana Shyam*** reported in **(2007) 7 SCC 445**, the Insurance Company is to be held liable for the number of award which are higher.

10. Third ground raised by the appellant-owner is that the Insurance Company failed to prove about the requirement of the permit for running auto-rickshaw and further that the auto-rickshaw involved in this case was not having permit on the date of accident, he submitted that as the auto-rickshaw though the

passenger carrying vehicle but comes within the category of Light Motor Vehicle (LMV), therefore, the permit as such is not required. He submits that on the date of accident, undisputedly, the offending vehicle was insured with Non-applicant 2 and, therefore, the liability to satisfy the amount of compensation would be upon the Respondent 2/ Insurance Company.

11. The submission made by the learned counsel for the appellant-owner was resisted by the learned counsel appearing for the Respondent 2/ Insurance Company. He submits that the requirement of permit for the vehicle being used for commercial purpose is essential and mandatory. He submits that all the vehicles which are being used as Transport Vehicle are required to obtained permit under the provisions of Section 66 of the Motor Vehicles Act. He opposes the submissions of the leaned counsel for the appellant-owner with regard to valid licence and also the liability to satisfy the amount of compensation of the higher award even if there were excessive passengers traveling than the seating capacity at the time of accident. He submits that the award passed by the learned Claims Tribunal fastening the liability upon the owner of the offending vehicle is just and proper in the facts and circumstances of the case.

12. Learned counsel appearing for Respondent 1/ claimant Sanjay Kumar Dhirhi submits, that the claimant has filed an appeal for enhancement of the award. He submits that, sofar as, the appeal filed by Sanjay Kumar Dhirhi (MAC No. 150/2014), the learned Claims Tribunal has not awarded future prospects as per the law laid down by the Supreme Court in the case of ***National insurance Company Ltd. v. Pranay Sethi*** reported in **(2017) 16 SCC 680**. He also submits that the learned Claims Tribunal erred in awarding meagre amount towards other pecuniary and non-pecuniary damages and prays that the amount of compensation should be suitably enhanced. He also submits, that if this Court comes to a conclusion that the exoneration of the Insurance Company has been properly held by the Claims Tribunal then a direction be

issued to Insurance Company to pay the amount of compensation first and, thereafter, to recover it back from the owner of the offending vehicle. Sofar as, MAC No. 151/2014, Mr. Sanjay Patel, learned counsel for the appellant submits that the claimant Smt. Shanti Dhirhi took treatment as in-patient for 10 days, suffered grievous injury over her face but the learned Claims Tribunal has not awarded any amount towards the loss of income during the period of treatment ans loss of future income, as also the appropriate amount on other non-pecuniary damages for which the claimant is entitled for. In this case also, he reiterated his submission with regard to direction to be issued to Respondent 2-Insurance Company for paying the amount of compensation first and thereafter to recover the same from the owner of the offending vehicle.

13. We have heard learned counsel for the respective parties and also perused the record.

14. Sofar as, the ground raised by Mr. Goutam Khetrapal in appeal filed by the owner of the offending vehicle with regard to recording of finding of driving licence, we are of the considered view that the said finding recorded by the Claims Tribunal is erroneous in view of the law laid down by the Supreme Court in the case of ***Mukund Dewangan v. Oriental Insurance Company Ltd.*** reported in ***(2017) 14 SCC 663***, the learned Claims Tribunal has recorded that the owner of the offending vehicle was possessing the licence to drive LMV which was proved by placing the copy of the register by NAW-1 showing issuance of licence in name of Vipin Bihari Mishra who is the owner of the offending vehicle. In the licence, there is authorisation to drive the motor cycle with gear and LMV having its validity from 01-02-2001 to 31-01-2021 and further there is an endorsement of Heavy Transport Vehicle and Heavy Passenger Motor Vehicle issued from 02-07-2008 to 01-07-2011. In view of the definition as provided under Section 2(21) of the Motor Vehicles Act with regard to LMV, the offending vehicle comes within the purview of

LMV and the Non-applicant 1/owner of the offending vehicle was possessing the driving licence to drive LMV. In view of the above, the case of the owner of the offending vehicle is covered with the law laid down by the Supreme Court in the case of **Mukund Dewangan (supra)**, the finding of the Claims Tribunal that Non-applicant 1/ Owner of the offending vehicle was not possessing valid and effective driving licence, is set aside.

15. Second ground raised by the learned counsel for the appellant-owner of the offending vehicle that only on the ground of carrying more passengers than the seating capacity, the Insurance Company cannot be exonerated entirely. The law in this regard has been settled by the Supreme Court in the case of **Anjana Shyam (supra)** wherein it is mentioned that if at the time of accident, it is found that more passengers than the permitted sitting capacity were traveling then the liability of the Insurance Company will be to satisfy higher amount of compensation to the number of persons whose risk have been covered under the policy.

16. The third ground raised by the learned counsel for the appellant-owner with regard to permit, the definition of permit under Section 66 of the Motor Vehicles Act reads as under:

> "**66. Necessity of Permits**: (1) No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used:
>
> Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorise th use of the vehicle as a contract carriage:
>
> Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a goods carriage either when carrying passengers or not:
>
> Provided also that a goods carriage permit shall,

> subject to any conditions that may be specified in the permit, authorise the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by him."

Above reference would show that the permit is essential for plying the vehicle on road if it is used as commercial/ transport vehicle, copy of the insurance policy has been placed on record as Ext. D-2, perusal of which would show that the policy was issued for the offending vehicle as commercial vehicle, the vehicle insured under the policy is Bajaj Auto which is three-wheeler auto-rickshaw, sitting capacity as three. Evidence of claimants would show that on 14-07-2010 at about 12:30 a.m., they were traveling in offending vehicle from Railway Station to Balconagar as passengers which was not denied by the owner of the offending vehicle. Insurance Company examined one Naresh Sankat, AGII, District Transport Office, Korba, as NAW-1 who in his evidence, has categorically stated that the auto-rickshaw comes within the category of Light Passenger Vehicle. He also stated that for plying the vehicle, there is requirement of permit, when more specific question was put to him that whether the permit is required for passenger carrying auto-rickshaw or not, he stated that there is requirement of valid permit for plying the passenger vehicle on road. In view of the aforementioned evidence placed on record and under the provisions of Section 66 of the Motor Vehicles Act, we are of the view that the Claims Tribunal has correctly held that for plying the passenger vehicle, there is requirement of permit. Other submission made by the learned counsel for the appellant-owner that the Insurance Company failed to place cogent and reliable piece of evidence to show that on the date of accident, offending vehicle was not having the valid permit. We find it difficult to accept the submission made by the learned counsel for the appellant-owner because the appellant is party to claim application, he appeared and represented by an advocate but has not placed on record the permit, if any, of the offending vehicle on record before the Claims Tribunal and before this Court as well. The appellant-owner of the offending vehicle failed to produce any permit.

17. In view of the aforementioned facts and circumstances of the case, we are of the considered view that on the date of accident, driver of the offending vehicle was being plied without valid permit and we do not find any error in the finding recorded by the Claims Tribunal that the offending vehicle was plied in breach of conditions of insurance policy as there was no valid permit. No other ground is raised by the learned counsel for the appellant before us except the aforementioned three grounds.

18. For the foregoing reasons, we held that the learned Claims Tribunal committed error in recording the finding against the appellant-owner on the ground of licence and carrying excessive passengers than the seating capacity to be the two grounds out of three for exonerating the Insurance Company. We uphold the finding recorded by the Claims Tribunal in holding that there was breach of conditions of insurance policy for want of valid permit of the offending vehicle on the date of accident and the same is breach of conditions of insurance policy. For the foregoing reasons, appeal filed by the driver-cum-owner of the offending vehicle fails and it is hereby dismissed accordingly.

19. Sofar as, the appeal filed by the claimant in MAC No. 150/2014, seeking enhancement of the impugned award on the ground that the Claims Tribunal erred in not awarding any amount towards the future prospects, sustaining the disability to the extent of 30% and award of meagre amount of Rs. 7,000/- towards other heads. We have perused the record minutely. The claimant Sanjay Kumar Dhirhi placed on record the disability certificate issued by the District Medical Board, Korba mentioning the disability of the appellant Sanjay Kumar Dhirhi to the extent of 45% on the left knee and left elbow. To support the disability certificate (Ext. P-47), he examined Dr. P.P. Singh, Medical Officer as AW-5 before the Claims Tribunal. In his statement, he stated that the disability certificate was issued by the Medical Board, Korba, which was

signed by him and permanent disability for the left leg and left hand has been assessed as 45%. He also admits that the percentage of disability mentioned in the certificate is not with regard to whole body. He further clarifies that after three years, the disability may reduce or may increase. He admits that there is no separate assessment of disability with regard to leg and hand. In evidence, Sanjay Kumar Dhirhi has admitted that, there is difficulty in movement of hand, the doctor stated that rod is to be taken out. He further stated that prior to the date of accident, he was providing training at Balco Computer Centre. He admits that where he was working is not a government institution, he has placed on record Ext. P-46 which is salary certificate issued by All India Society for Electronics and Computer Technology (AISECT) showing earning income as Rs. 6,500/- per month and further examined one Mrityunjay Singh as AW-4 to prove the document Ext. P-46. AW-4 in his evidence has stated that prior to the date of accident, injured claimant Sanjay Kumar Dhirhi was working as Faculty cum Data operator from 10-02-2010 but after the accident, he did not appear on his work, now he is not working with the institute. He also stated that during the period of his employment, he was being paid Rs. 6,500/- per month and the certificate issued by him Ext. P-56 bears his signature. This witness was cross examined extensively, but his submission remained uncontroverted.

20. Learned Claims Tribunal considering the evidence available on record i.e. the disability certificate, evidence of doctor of Medical Board AW-5, evidence of claimant AW-1 and the evidence of employer AW-4 and held that the appellant Sanjay Kumar Dhirhi suffered loss of income to the extent of 30% due to disability suffered by him, the income of the claimant was assessed as Rs. 5,500/- per month and on the basis of loss of income @ 30%, loss of yearly income was calculated as Rs. 19,800/- and after multiplying the same with 17, total loss of income has been assessed as Rs. 3,36,600/- and after awarding the medical expenses of Rs. 15,316/-, Rs. 5,000/- towards pain and sufferings, Rs. 2,000/- towards special diet, awarded total sum of Rs.

3,59,000/-. However, learned Claims Tribunal has not awarded any amount towards future prospects. If the Tribunal arrived at a finding that claimant Sanjay Kumar Dhirhi suffered 30% loss of earning capacity based on the disability certificate of 45% and evidence of doctor then the loss of income will also have an effect of same ratio on the future earnings as well. Therefore, in view of the above, we find it appropriate to apply the principle as laid down by the Supreme Court in **Pranay Sethi (supra)** for awarding future prospects as on the date of accident.

21. The amount to be awarded to claimant requires reconsideration and recalculation which is as follows.

22. Monthly income of claimant Sanjay Kumar Dhirhi has been assessed as Rs. 5,500/- i.e. Rs. 66,000/- p.a. and the age of claimant has been shown to be 25 years of age and, therefore, there will be addition of 40% of the established income towards future prospects. By adding 40% of the amount towards future prospects, the yearly income of the claimant Sanjay Kumar Dhirhi will come to Rs. 92,400/- [Rs.66,000x40%+Rs.66,000/-]. Loss of future income as assessed by the Claims Tribunal is to the extent of 30%, therefore, upon calculating 30% of loss of yearly income will be come to Rs. 27,720/- [Rs.92,400x30%]. Looking to the age of the claimant Sanjay Kumar Dhirhi, application of multiplier factor as applied by the Claims Tribunal is 17, the total loss of income due to permanent disability will come to Rs. 4,71,240/- [Rs. 27,720x17]. Claimant Sanjay Kumar Dhirhi will further be entitled for sum of Rs. 10,000/- towards pain and sufferings, looking to the nature of injury suffered by him and also treatment taken by him, Rs. 2,000/- towards the special diet and Rs. 15,316/- as awarded by the Claims Tribunal towards medical expenditure based on the medical bills. Appellant Sanjay Kumar Dhirhi will also be entitled for Rs. 20,000/- towards loss of amenities in life. Now the claimant Sanjay Kumar Dhirhi will be entitled for a total sum of **Rs.5,18,556/-** [Rs.4,71,240 + Rs.10,000 + Rs.2,000 + Rs.15,316]. The

aforementioned amount will carry interest @ 6% p.a. from the date of filing of claim application till its realization.

23. Sofar as, the appeal MAC No. 151/2014 filed by Smt. Shanti Bai Dhirhi for enhancement of the impugned award, whereby learned Claims Tribunal awarded Rs. 4,000/- as compensation. The claimant Smt. Shanti Bai Dhirhi placed on record Ext. P-5, discharge report of Balco Hospital, wherein date of admission has been shown as 15-07-2010 and the discharge date has been shown as 26-07-2010, from which, it is apparent that the claimant took treatment as in-patient for about 12 days, as per the discharge ticket, upon diagnosis it was found that big size haematoma left side forehead, CT Scan has been found to be normal. In evidence, claimant Smt. Shanti Bai Dhirhi has stated that she is unable to state as to how much amount has been expended on her treatment. She also stated that she suffered frequent dizziness and she is unable to stand properly. She was engaged in the work of tailoring but after alleged accident, she was unable to do her work. Treating doctor was not examined by the claimant to prove the plea of permanent disability. In absence of any specific expert evidence, oral statement made by the claimant cannot be accepted, claimant even not placed on record any medical prescription showing consultation with the doctor, particularly, the Neurosurgeon, as per complain made by her. Last medical bill is with regard to purchase of medicines on 22-02-2011, whereas the claimant was examined before the Claims Tribunal on 12-02-2013.

24. In view of the above, the submission made by the learned counsel for the appellant Smt. Shanti Bai Dhirhi, we do not find that learned counsel for the appellant has made out any case to show that the claimant suffered any disability. Sofar as, the quantum of the compensation awarded by the learned Claims Tribunal is concerned. Looking to the period as in-patient treatment and also the head injury, we deem it fit and proper to enhance the compensation amount from Rs. 4,000/- to Rs. 10,000/- and it is ordered

accordingly.

25. Sofar as, the submission made by the learned counsel for the appellant/ claimant that as the finding recorded by the Claims Tribunal that there is breach of conditions of insurance policy, a direction be issued to Respondent 2/ Insurance Company to first pay the amount of compensation and thereafter recover the same. He places his reliance on the judgment passed by the Hon'ble Supreme Court in the case of ***Amrit Paul Singh and another v. Tata AIG General Insurance Company*** reported in **(2018) 7 SCC 558**. Submission made by the learned counsel for the appellant appears to have same force and the principle laid down by the Hon'ble Supreme Court in the aforementioned judgment is not disputed by the learned counsel for the Respondent-Insurance Company.

26. In this case also, as we have already held that breach of conditions of insurance policy is on account of not having the valid permit of the offending vehicle on the date of accident and the same was under consideration before the Supreme Court in case of **Amrit Paul (supra),** the Hon'ble Supreme Court held thus:

> "24. In the case at hand, it is clearly demonstrable from the materials brought on record that the vehicle at the time of accident did not have a permit. The appellants had taken the stand that the vehicle was not involved in the accident. That apart, they had not stated whether the vehicle had temporary permit or any other kind of permit. The exceptions that have been carved out under Section 66 of the Act, needless to emphasise, are to be pleaded and proved. The exceptions cannot be taken aid of in the course of an argument to seek absolution from liability. Use of a vehicle in a public place without a permit is a fundamental statutory infraction. We are disposed to think so in view of the series of exceptions carved out in Section 66. The said situations cannot be equated with absence of licence or a fake licence or a licence for different kind of vehicle, or, for that matter, violation of a condition of carrying more number of passengers. Therefore, the principles laid down in *Swaran Singh, National Insurance Co. Ltd. v. Swarn Singh (2004) 3 SCC 297* and *Lakhmi Chand, Laxmi Chand v. Reliance General Insurance (2016 3 SCC 100)* in that regard would not be applicable to the case at hand. That

> apart, the insurer had taken the plea that the vehicle in question had no permit. It does not require the wisdom of the "Tripitaka", that the existence of a permit of any nature is a matter of documentary evidence. Nothing has been brought on record by the insured to prove that he had a permit of the vehicle. In such a situation, the onus cannot be cast on the insurer. ..."

27. In view of the ruling of the Hon'ble Supreme Court and considering the case for exoneration of Insurance Company from its liability, we find it appropriate to direct the Respondent-Insurance Company to pay the entire amount of compensation along with interest in both the appeals filed by the claimants i.e. claimant Sanjay Kumar Dhirhi and claimant Smt. Shanti Bai Dhirhi and thereafter to recover the same from the owner (Appellant in MAC No. 47/2014) of the offending vehicle, for recovery of amount so deposited by the Insurance Company, there is no requirement to file separate proceedings but the Respondent-Insurance Company will be at liberty to file an application for execution in the very same proceedings. It is also made clear that any amount deposited by the appellant-owner of the offending vehicle will be adjusted and balance amount will be required to be deposited by the Insurance Company.

28. Consequently, appeal MAC No. 47/2014 filed by the owner of the offending vehicle is hereby dismissed. Appeals, MAC No. 150/2014 and MAC No. 151/2014 filed by the claimants are allowed in part and the impugned award is hereby modified to the extent as indicated herein-above.

Sd/-	Sd/-
(P.R. Ramachandra Menon)	**(Parth Prateem Sahu)**
Chief Justice	Judge

Pawan