IN THE HIGH COURT OF JHARKHAND AT RANCHI

M. A. No.111 of 2013

The Oriental Insurance Company Ltd., Siliguri Divisional Office, Hill Cart Road, Siliguri, represented through its Divisional Manager, The Oriental Insurance Company Ltd., Ranchi Division I, Tiwary Enclave, Circular Road, Ranchi, PO and PS- Lalpur, District- Ranchi.

.... Appellant(s)

Versus

1. Sanjhli Marandi, W/o Late Siram Marandi, R/o Goranda, PO and PS- Borio, District- Sahibganj.
2. Raju Prasad Sah, S/o Satya Narayan Sah, R/o Village Pokhariya, Fatak, PO and PS- Borio, District- Sahibganj.
3. Raju Yadav, S/o Bhola Yadav, R/o PO and PS- Rajmahal, District- Sahibganj. . .. .Respondent(s)

With

M. A. No.112 of 2013

The Oriental Insurance Company Ltd., Siliguri Divisional Office, Hill Cart Road, Siliguri, represented through its Divisional Manager, The Oriental Insurance Company Ltd., Ranchi Division I, Tiwary Enclave, Circular Road, Ranchi, PO and PS- Lalpur, District- Ranchi.

.... Appellant(s)

Versus

1. Pallu Murmu, S/o Late Budhrai Murmu, R/o Dighi, PO and PS - Borio, District- Sahibganj.
2. Raju Prasad Sah, S/o Satya Narayan Sah, R/o Village Pokhariya, Fatak, PO and PS- Borio, District- Sahibganj.
3. Raju Yadav, S/o Bhola Yadav, R/o PO and PS- Rajmahal, District- Sahibganj. . .. .Respondent(s)

With

M. A. No.113 of 2013

The Oriental Insurance Company Ltd., Siliguri Divisional Office, Hill Cart Road, Siliguri, represented through its Divisional Manager, The Oriental Insurance Company Ltd., Ranchi Division I, Tiwary Enclave, Circular Road, Ranchi, PO and PS- Lalpur, District- Ranchi.

.... Appellant(s)

Versus

1. Praghan Besra, S/o Late Churka Besra, R/o Bhudwa, PO and PS- Borio, District- Sahibganj.
2. Raju Prasad Sah, S/o Satya Narayan Sah, R/o Village Pokhariya, Fatak, PO and PS- Borio, District- Sahibganj.
3. Raju Yadav, S/o Bhola Yadav, R/o PO and PS- Rajmahal, District- Sahibganj. . .. .Respondent(s)

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CORAM :HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

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For the Appellant (s) : Mr. G. C. Jha, Advocate
[In all the three Misc. Appeals]

For the Respondents/
Claimants : Mr. Atanu Banerjee, Advocate
[In all the three Misc. Appeals]

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16/ 16.12.2025. Heard, learned counsel for the parties.

1. All the three Misc. Appeals arise out of separate award of compensation made in separate claim case(s) filed on behalf of the claimants.
2. All the aforesaid three Misc. Appeals arise out of the common accident which took place on 30.04.2006 involving truck bearing Registration No.WB 65 8244 which met with an accident. In the said accident, seven persons died, as such, are being heard together and disposed of by the common order/judgment.
3. M.A. No.111 of 2013 has been preferred by the appellant –the Oriental Insurance Company Ltd. against the impugned judgment / Award dated 13.02.2013 passed by learned District and Addl. Sessions Judge-I- cum-Motor Accident Claims Tribunal, Sahibganj, in Motor Accident Claim Case No.15 /2006.

   M.A. No.112 of 2013 has been preferred by the appellant –the Oriental Insurance Company Ltd. against the impugned judgment / Award dated 13.02.2013 passed by learned District and Addl. Sessions Judge-I- cum-Motor Accident Claims Tribunal, Sahibganj, in Motor Accident Claim Case No.12 /2006.

   M.A. No.113 of 2013 has been preferred by the appellant –the Oriental Insurance Company Ltd. against the impugned judgment / Award dated 13.02.2013 passed by learned District and Addl. Sessions Judge-I- cum-Motor Accident Claims Tribual, Sahibganj, in Motor Accident Claim Case No.10 /2006.
4. Learned Tribunal awarded compensation to the claimants under Section 166 of the Motor Vehicles Act by fixing liability upon the appellant-Insurance Company to pay the compensation amount.
5. Misc. Appeals have been preferred on the limited ground that the deceased were travelling as a gratuitous passengers on the said truck which was loaded with sand and, as such, there was Fundamental breach of terms of Insurance Policy and therefore, the Insurance-Company has a right to recovery against the owner of the vehicle.
6. In order to buttress the argument, the FIR [Ext.-1] is relied upon, wherein, it has been stated that it was lodged on the very same day of accident on the basis of fardbeyan of Jivan Hembrum who stated that there was a general public meeting in the Sahibganj Railway maidan, to be addressed by the former Chief Minister, Mr. Babu Lal Marandi and Mr. Stephen

Marandi. A large number of people had gone there to attend the meeting. The deceased persons were travelling on the offending truck to attend the said meeting which met with an accident due to rash and negligent driving by the driver of the said truck. The FIR was lodged against the driver of the truck.

7. It is also contended that the witnesses have deposed that they were travelling on the truck by paying the fare. It is argued that even if, it is assumed that passengers had paid Rs.10/- each for travelling in the said goods carrying truck, it will not be a ground for the owner to escape the liability for breach of the terms and conditions of the Insurance-Policy.
8. The owner of the vehicle entered into appearance through learned counsel Mr. Din Dayal Saha, but he has not appeared in hearing of all the three Misc. Appeals.
9. Learned counsel on behalf of the claimants appears and defends the impugned award.
10. Having considered submissions advanced, it is evident that FIR has been filed in each of three motor accident claim cases which specifically states that the deceased persons were travelling on the truck for attending a political meeting. A Commercial goods carrying truck is not supposed to carry passengers and, therefore, whether they paid Rs.10/- or not hardly makes any difference. There is no contrary evidence to that in the FIR that deceased persons were travelling in the truck.
11. It has been held by the Apex Court in the case of ***National Insurance Co. Ltd. Vs. Rattani & Ors. [(2009) 2 SCC 75]*** that ordinarily an allegation made in the first information report would not be admissible in evidence per se but as the allegation made in the first information report had been made a part of the claim petition and consequently the appellate courts would be entitled to look into the same.
12. In view of the documentary evidence of FIR as well as the testimony of the witnesses that they were travelling by truck, there cannot be any doubt that they were travelling as gratuitous passengers, as such, there was breach of terms of Insurance Policy.
13. The said breach did not absolve the Insurance-Company from its liability, but had right to recovery against the owner of the vehicle. In view of the ratio laid down by the Apex Court in ***(2017) 4 SCC 796***.

14. The impugned judgment is modified to the extent that the appellant(s)-Insurance Company shall have right of recovery after paying the compensation amount to the claimants.

15. All the aforesaid three Misc. Appeals stand disposed of. Pending I.A(s)., if any, also stands disposed of.

16. The Award of compensation be satisfied by the appellant- Insurance Company in all the three Misc. Appeals within a month from the date of receipt / production of a copy of this judgment before the learned Tribunal.

17. The statutory amount deposited at the time of preferring the instant Misc. Appeals shall be remitted to the learned Tribunal so as to be paid/ adjusted to the claimant(s).

18. It goes without saying that the amount already paid shall be adjusted against the final compensation amount to be paid to the claimants by the appellant- Insurance Company.

(**Gautam Kumar Choudhary, J.**)

Sandeep/-

Uploaded
17.12.2025.